by the farmers including the land cost, with the result horticulture farmers are put in to great hardships.

The following are some of the problems faced by the horticulture farmers in Karnataka:

The sudden stoppage of release of subsidy for the on-going projects for the last two months has caused great distress to horticulturists.

The subsidy at present, which has been released and credited to the financing institutions, is not fetching any interest. Therefore, the subsidy amount should be credited to respective loan account of the farmers against their debit balance.

The subsidy rate must be enhanced taking into account the total cost of the investment on the project from land purchase to crop harvest. Uniform subsidy should be provided for all the crops.

The present condition of the Board, to avail 40 per cent term loan of the project cost should be reduced to 20 per cent.

Therefore, I urge upon the Government to take immediate steps to give relief to horticulturists in Karnataka in particular and the country in general. Thank you.

MISS MABEL REBELLO (Madhya Pradesh): Sir, I associate myself with the Special Mention made by the hon. Member

SOME HON. MEMBERS: We also associate ourselves with the sentiments expressed by the hon Member

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SHORT DURATION DISCUSSION

The role of CBI in Babri Masjid demolition case

SHRI HANSRAJ BHARDWAJ (Madhya Pradesh): Sir, I raise a discussion on the role of CBI in the Babri Masjid demolition case.

2.00 P.M.

श्री सभापति : माननीय सदस्य, आप परिचित हैं कि कल इसी प्रकार का प्रश्न नियम 168 के अतर्गत मुझे दिया गया था और मैंने उस पर अपनी व्यवस्था देते हुए इसको अस्वीकार किया था। कई माननीय सदस्यो ने मुझे मिल कर बताया कि यह बहुत ही महत्वपूर्ण मसला है, जिस पर हाउस मे चर्चा होनी चाहिए। मुझे इस बात की खुशी है कि इसी चर्चा के लिए इन्होंने अब अल्पकालिक चर्चा के रूप मे मोशन दिया है, जिस पर चर्चा करने में मुझे कोई आपत्ति नहीं होगी। मैं इसको स्वीकार करता हूं।

मैं समझता हूं कि अब लच ऑवर के बाद इस पर चर्चा हो तो ज्यादा अच्छा रहेगा। इसलिए मैं सदन की कार्यवाही एक घंटे के लिए स्थगित करता हूं।

The House then adjourned for lunch at three minutes past one of the clock.

The House re-assembled after lunch at three minutes past two of the clock, MR. CHAIRMAN in the Chair.

SHRI HANSRAJ BHARDWAJ : Hon. Chairman, Sir, I express my gratitude to you for allowing me to raise this very important discussion which rattles today the very foundation of rule of law and democracy. Sir, in a country where the justice administration system does not function smoothly, where the stream of justice is impure or its purity is not maintained, it shakes the very foundation of that democracy and that is why we had an apprehension in our mind that this particular case, which required prompt, efficient investigation, prosecution and trial is not being pursued properly and there are attempts to subvert the process of law. We sought your permission to discuss it It was never our intention to raise any acrimony or ill will, or derive any undue advantage out of this discussion Our concern is shared not only by us, but in several judgements the Supreme Court, right from the Vineet Narain's Case to several other cases, which had extensively been cited in the judgement of the High Court of this very case, is shared by judiciary also. You will appreciate that today the situation in the country is drifting because those who are responsible for the governance of this country, they are involved in cases. The Supreme Court also observed, and this very Judge, Justice Bhalla, in the High Court had also observed that it was not being pursued with the dispatch which it required I would demonstrate to you, Sir, that the investigating agency, which is responsible for proper investigation of the cases, in our system of administration of criminal justice has been failing in its duty. Firstly, they

were overactive, then, they slowed down; and, finally they did not do anything in proper investigation, and, after proper investigation in prosecution stage of this case You will permit me to place a few facts on record I will not put any fact which is controversial, or, which is even contested You will all agree that the incident relates to 6th December, 1992 Several cases, including Crime No. 197 of 92, Crime No. 198 of 92, and 47 other reports were lodged at the place where this disputed structure existed On this basis, the police moved into action for investigation of this case on that day. One particular case was there in which only car sevaks were mentioned -- no names were mentioned That was 197/92 In the second case, 198/92, several important leaders, including our Deputy Prime Minister, our education Minister and other very important leaders of Bhartiya Janata Party and VHP were mentioned in the FIR Eight of them were mentioned in the FIR This is in the FIR. Besides that, more than 47 other cases were registered On 10th December, a case related to the VVIPs was entrusted to an organization, which is in UP, called, the CBCID You know what is CBCID. We have seen it in this latest case of murder of a young girl in Mayawati's Government The CBCI destroyed all evidences. And, the Chief Minister herself had to say, "Well, the CBI should take it over." So, you can just imagine the situation that is enveloping this country. What is the state of an investigating agency in UP, which is a premier State of the country, which is responsible for giving several Prime Ministers and several legendary Chief Ministers? Instead of collecting evidence, they are destroying evidence. Therefore, the Chief Minister herself came on television and declared that they were handing over the case to the CBI. Now, it has come to the CBI.

We are anxious to protect the integrity and independence of our investigating agencies. But this Government is not concerned. I was surprised how the young Law Minister yesterday took shelter under an alibi of *sub judice* Is it *sub judice* that an investigating agency is not performing its duty properly? Is it *sub judice* that a Prosecutor is not performing his duty properly? These are issues We don't want to say that the evidences are less or more, or, so and so is guilty. But it is certainly our concern to maintain the purity of justice, purity of investigating agency, purity of prosecuting agency In Vineet Narain's case the Supreme Court highlighted it, which is known as hawala case. In that particular case, one of the accused was also the present Deputy Prime Minister And he said, "Now that there is a charge, I will resign my seat as MP, Lok Sabha " We

were all very much happy that, at least, there was a person who had set some standards And he said, " I will not occupy office unless I am cleared of the offence " Now, we are dealing with the same person here, and the crime is much more grave The crime is, destroying a place of worship and hurting the religious sentiments of the people. I, with full sincerity, believe that our leaders, cutting across party lines, are men of integrity. They would not like to destroy any place of worship, if they are true followers of Hinduism or Islam, or for that matter Christianity. Religion is religion and it must be respected But if you venture, decide and resolve to destroy a place of worship, you are nowhere; neither you are a good religious leader nor a good political leader. Here we are dealing with a particular case which has been made a political issue They first plan to destroy a place of worship, get political advantage out of it and then become heroes. We are discussing that case. And when it comes up for trial, and when it comes up for discussion, we say, it is *sub judice* Now, I will present to you, Sir, the statistics derived from the court records to show how the investigation was entrusted to the CBI. The first case, 197/92, was given to the CBI in the first instance. But the important case, that is, 198/92 continued with the CBCID, Uttar Pradesh, until on 25th August, 1993, -- the State Government of Uttar Pradesh was then under President's rule-- the Central Government was requested that all cases, I repeat, all cases including 197, 198 and 47 others were entrusted to the CBI for investigation and the CBI sought the permission of the court. At that time, the venue of trial was the Rae Bareilly court, and the CBI sought the permission because it is mandatory to seek that permission under 173 (8) of the Code of Criminal Procedure that we want to investigate this case afresh. So, the CBI launched investigation into all cases irrespective of the FIR numbers The Minister was quoting FIR Nos 197 and 198 to confuse the public mind There is nothing like 197 or 198 now The CBI converted their own RC In the CBI -- the Minister must be knowing this -- they don 't say FIRs, they say RC. RC I of 1993 and RC 2 to 48 of 1993, were the two RCs which enabled them to investigate the cases of all the persons who were involved in the demolition episode. And these are the facts which show how the CBI reached at a conclusion, after full investigation of the case. Today, we can say in the House that we had no faith in the CBI, at that time, because the State was under President's Rule and the Central Government was different; there was the Congress Government. So, the BJP could very well say and they did say so. But, today they are disowning that the CBI, after investigation, filed a consolidated chargesheet on 5th October, 1993. What is a consolidated

chargesheet? Need I educate the Law Minister that a consolidated chargesheet is the one in which all the FIRs are amalgamated and one report under 173 of the Code of Criminal Procedure is given to the court? Why was it done? We must understand this. It was done because after extensive investigation, the CBI found that it was not a simple case. It is a very very grave crime that has been committed by these leaders who have conspired amongst themselves In Hindi, they have used the word "षड्यंत्रकारी" They have conspired among themselves to demolish the structure in pursuance of a criminal conspiracy This is what section 120 (B) of IPC says. 120 (B) of IPC deals with criminal conspiracy They collected evidence that there was a Rath Yatra planned to promote communal feelings which culminated on 6th December and led to demolition of the mosque. You may not have respect for the mosque, but anybody who has fear of God will respect equally a mosque and a temple. You may derive pleasure by demolishing a place of worship but it is not a matter of pleasure or deriving any pride One of my young friends from the Shiv Sena he took that stance and some of them always take this stance. "We are Ram bhakts We can do anything." Everybody is a follower and believer in God. Islam is one religion which says La Ilaha Illallah, Muhammadur Rasulullah We say एकमेवं अद्वैतं. We all believe in God, but that doesn't mean that we should break each other's places of worship. Therefore, Sir, I venture to say, with your permission, a very heinous crime has been committed. We cannot condone

श्री कलराज मिश्र (उत्तर प्रदेश) वहा नमाज नहीं पढ़ी जाती है। वहा मंदिर का दर्शन किया जाता है ...**(व्यवधान)**...

SHRI HANSRAJ BHARDWAJ. Please take your seat. You are not sincere

श्री कलराज मिश्र मैं सिंसियर हू, इसलिए बोल रहा हू ...**(व्यवधान)**...

SHRI HANSRAJ BHARDWAJ· You are not sincere for the temple. I have the signatures. *(Interruptions)* . Sit down, Mr. Mishra. I have the signatures of all your leaders with me. Please listen to me. Get educated at some point of time It is not proper to obstruct. This is how you create confusion. How many years will you take to make this Ram Mandir, and so on and so forth?

श्री कलराज मिश्र : Swaran Mandir

SHRI HANSRAJ BHARDWAJ: I am submitting. As regards 'Swaranmandir" we have suffered We have already replied to that charge. You are confusing the matter. If anybody commits a mistake, he should accept it. I am one of those who will own up in the House that I have committed a mistake. But, you are the people who are creating confusion in public mind

Sir, I point out to you what is the charge which was levelled by the CBI after a consolidated chargesheet. I will just refer to what was said by the CBI in October, 1993. I will read two sentences. I will not take much time of the House 1991 मे आम चुनाव मे दिनाक 25.6.91 को कल्याण सिंह जी, मुरली मनोहर जोशी, मत्रिगण तथा भारतीय जनता पार्टी के विधायको ने अयोध्या में जाकर शपथ ली थी कि इसी स्थान पर श्रीराम मंदिर का निर्माण होगा। Then the court has relied upon that there was a letter written on 7.7.90. This was the allegation of CBI, not mine कल्याण सिंह, मुख्यमंत्री को राम जन्मभूमि के निर्माण के लिए लिखा। इसका जवाब कल्याण सिंह ने 31 तारीख को दिया।

SHRI S S. AHLUWALIA (Jharkhand) : Sir, I am on a point of order. With due respect to this Hon. House, are we running a parallel trial of this case in this House?

SHRI HANSRAJ BHARDWAJ. Who is saying so?

SHRI S.S. AHLUWALIA: When we are talking about all these things. *(Interruptions)...*

SHRI HANSRAJ BHARDWAJ I am saying what the CBI has said. *(Interruptions)* Sir, this point of order must be overruled because he was the Minister with me at that time. He knows all these..*(Interruptions).*

MR. CHAIRMAN: Please listen to me.

श्री एस0एस0 अहलुवालिया : कल को यह सब-जुडिस था, इसी मुद्दे पर था कि हम इसके मैरिट पर बात नहीं करेंगे। जो भाषण यहां पर हो और फैसले को प्रभावित करे, वैसी चीजो का यहां पर उपयोग या प्रयोग नहीं होगा...**(व्यवधान)**...

श्री हंसराज भारद्वाज : कोई ऐसा शब्द मैं नहीं कहूंगा ...**(व्यवधान)**... मैं ऐसी कोई चीज नहीं कहूंगा ...**(व्यवधान)**...

श्री सभापति : मेरी बात सुनिए। यह कोई प्वाइंट ऑफ ऑर्डर नहीं है ...**(व्यवधान)**...

श्री नीलोत्पल बसु (पश्चिमी बंगाल) : दु:खी क्यों हो रहे हैं आप ?

श्री एस0एस0 अहलुवालिया : हम दु:खी नहीं हो रहे हैं...**(व्यवधान)**...

श्री सभापति : ऐसी कोई आपत्तिजनक बात नहीं है। बोलने दीजिए उनको। ...**(व्यवधान)**...

श्री सुरेश पचौरी (मध्य प्रदेश) . सभापति महोदय, इनको पता नहीं है कि संसद में पोइंट आफ आर्डर कैसे उठाए जाते हैं।...**(व्यवधान)**...

श्री सभापति . आप बोलिए।

SHRI HANSRAJ BHARDWAJ : Sir, you can stop me wherever I am wrong.

श्री सभापति : आप बोलिए।

SHRI HANSRAJ BHARDWAJ: Sir, I am only submitting for your information because they have a closed and shut mind. I am saying that what the CBI alleged may be true or may be false. I am not saying that that is a hundred per cent gospel That is my grievance because the CBI is not speaking hundred per cent gospel, and you should help me in finding out the truth in this House So, what the CBI said on 05.12.1992 "एक गोपनीय बैठक विनय कटियार के घर मे हुई जिसमें श्री लाल कृष्ण आडवाणी और इन-इन आदमियों ने ढांचे को गिराए जाने का षड़यंत्र किया।" This is what the CBI said that a conspiracy was hatched at this place one day before the demolition, and it is also said by the CBI that after the demolition at that time, they said, "Now our final kar seva is over." This is the allegation which was made by this consolidated charge-sheet. It still exists and some other speakers will show what the CBI charge-sheet, consolidated charge-sheet, said, and, that is why, their counsel, Mr. P.K. Chobey, wanted the court to frame a charge against all the accused, 49 of them, in one go, under various sections of the IPC read with Section 120 B of the IPC. Need I educate the Law Minister or the other Minister who will reply that it is not an allegation out of imagination? It is an allegation made by this very agency which is now showing absolute unwillingness to prosecute this case. They could have at that time said, "We do not find any conspiracy, we do not find any case for

prosecution. Mr. Advani and others are above board." It is this very agency! The only difference was this. I might remind my friends that at that time some persons who were not Ministers did not occupy high places. Today, they are occupying very high positions, and the CBI is dragging its feet, and, that is precisely, Sir, our grievance You may be ever so high, but you are not above the law This is the principle, cardinal principle, of rule of law. Are you going to accept it, or, you will simply say that we will take this alibi that 'we have now put the case, the supplementary charge-sheet, you cannot look into it; it has become sub judice'? The principle of sub judice, according to what I understand is, there should be no attempt to interfere in the process of justice, and, if anybody does so, he is guilty of contempt of court. This is what I understand of sub judice, and that is where the presiding officers, hon Chairman, Speaker, may say, "You should not try to interfere in fair course of justice." And, I will be the last person to interfere in the course of justice. It is the other side which is interfering in the course of justice. You see, one Joint Director called army to arrest Mr. Lalu. And, today, the same CBI is not filing a regular SLP, in this very case, against the order of the High Court. When Justice Bhalla handed out this order that notification was not issued in consultation with the High Court, consequently the Judge should not have taken jurisdiction and should not have tried the second charge-sheet, and it is open to the State Governments to issue fresh notification because irregularities are curable, and it should be cured because it is a very important case. The court has commented in the judgement. I will show it to you. What happened? The State Government, the BJP, at that time refused to issue notification. My good friend, Rajnath Singh -- I have very high respect for him -- dragged it. Obviously, when the mentor is involved, the leader is involved, how he can issue a notification? They could issue notification against Lalu Yadav, or, for that matter, against any other person. But, in this very case, the Government refused to issue notification. Sir, you are the most experienced politician in this country; I know you personally. Can any Government drag its feet in performing constitutional functions? We take oath of the Constitution when we join the office of Ministers. Can any Government refuse to issue notification? Whatever the fate of the trial, let the Court decide, but the State Government must perform its constitutional duty. When a premier agency says that there is a *prima facie* case and the court upholds it, you cannot abdicate your functions as the Chief Minister.

श्री कलराज मिश्र : उनसे पूछना चाहिए।

SHRI HANSRAJ BHARDWAJ : I am asking today, Kalraj Mishraji, you entered into an alliance with the BSP Chief Minister Mayawati Why? You know the reason very well and you have no voice in Uttar Pradesh today I know, Panditji, what voice you have got in UP today. You are all friends. What is happening? "Don't issue any notification, we will give you this chair of Chief Minister!

श्री कलराज मिश्र इसीलिए मैं कह रहा हू कि उनसे पूछिए कि क्यो नहीं उन्होने नोटिफिकेशन उस समय दिया था। .. **(व्यवधान)**...

श्री सभापति : आप उसे जाने दीजिए। ...**(व्यवधान)**...

श्री कलराज मिश्र : उस समय वहा के महामहिम राज्यपाल थे। ...**(व्यवधान)**... अगर चूक हुई है और चूक मानते हैं तो ...**(व्यवधान)**...

श्री सभापति : आप उनको कहने दीजिए। आपको भी जवाब देने का मौका मिलेगा। उस समय सारी बात कह दीजिएगा। ...**(व्यवधान)**...

श्री कलराज मिश्र : उन्होने मेरा नाम लिया, इसलिए कह रहा हूं।

श्री सभापति . आपसे मित्रता के कारण नाम लिया है। .. **(व्यवधान)**...

श्री हंसराज भारद्वाज : मै तो आपके दुख मे आपसे सहमत हूं। आपकी और हमारी जो दरिद्र हालत वहा हुई है। What happened? I am telling you with full responsibility. After all, it is not for nothing that she was installed -- once we also committed that mistake during Shri Vohra's time, when he was Governor -- not for love Therefore, today, the bargain is, keep this case hanging, don't issue a notification And, what is the CBI doing? The CBI sits quiet The High Court says that no notification has been issued, therefore, the Lucknow part of the case should be stayed, and the other parts should continue. Is the CBI so ignorant that they have argued a case before the High Court saying that there is a case of conspiracy and the consolidated trial should continue? Did they agitate before the Supreme Court in SLP? Again, abdication of function! Who has to move? One of my dear friends is Shri Kuldip Nayyar I have very high regards for him What has Shri Nayyar to do except the public interest that such a case must be pursued promptly? He is not personally opposed to Shri L.K. Advani or Dr Murli Manohar Joshi. Because he is a public-spirited person, he had to go to the Supreme Court and argue this case. Can anybody answer this question?

SHRI B P SINGHAL (Uttar Pradesh) What did the Supreme Court say?

SHRI HANSRAJ BHARDWAJ : I am telling you -- because you did not send a proper inspection team through the CBI, the CBI did not file a SLP

श्री सभापति : आप अपनी बात बोलते जाइए।

SHRI HANSRAJ BHARDWAJ Therefore, Shri Kuldip Nayyar had to go And you know very well when this premier agency, CBI who has prosecuted this case up to the High Court, does not move to the Supreme Court, the Supreme Court has no personal interest to move into the matter except when Shri Kuldip Nayyar took it up. They upheld the observations of Justice Bhalla that since there is no notification -- none has been issued by either of the State Governments -- therefore, the trial could proceed separately But what trial? Here again our grievance. The trial should be for a conspiracy because the whole case of CBI was that : Today you are within your powers to say, 'we don't accept this charge, we are withdrawing this case' What the State Government could do, the Central Government could also do in the case of CBI You could withdraw the case. But it is political dishonesty on the part of this Government not to pursue this case as it requires. And you say that nowhere Section 120B has been mentioned. I am surprised. I have read out extensively I can read it out. The whole case was that there was a conspiracy from the 1990 rath yatra culminating into the demolition of the Mosque on 6th December. And CBI has found that I agree with you, CB-CID did not find. That is why, Shri Arun Jaitley is referring to 197 and 198 But is he so novice not to know that 198 does not exist? It is RC-1, amalgamated into RC-1 and RC-2 and 49. This is one case now which was there. Because of the inefficient and careless handling of the prosecution including the investigating agency, one limb of the case is now in Rae Bareli and the other is in Lucknow. Some people are being tried in Rae Bareli and some are being tried in Lucknow because you didn't properly assist in any stage after Justice Bhalla's order. Therefore, you cannot take this alibi We are keen. I have nothing personal; I have very high regard for the Deputy Prime Minister and Pandit Murli Manohar Joshi and even, for that matter, any other leader. But are you sincere to prosecute this case? Search your hearts. That is why, Hon Mr. Chairman, we wanted to raise this aspect that when high-ups are involved, the

investigating agency drags its feet. For what reason? The Supreme Court elaborated it. We will have CVC Bill next We will discuss this issue. What was the guideline laid down at that time? The guideline was that CBI should be insulated and separated from the executive wing and there should be an independent wing of the prosecution and there should be full independence in matters like this The Court went to the extent of saying, at that time I remember, that CBI should not respond in matters like this to their own Minister even. I was present in the House when this issue was discussed and Smt. Margaret was not allowed to handle her own Department because of Vineet Narayan's case. What has happened today? Where is the prosecution? Where is Mr. Chaubey? I ask you another question. Where is the Public Prosecutor today, a senior man from Banaras? Mr. Chaubey was removed. One gentleman was picked out of the blue from Delhi, a convenient man, and appointed as a Special Public Prosecutor in such an important case! This is our grievance

SHRI B.P SINGHAL He is casting an aspersion

SHRI HANSRAJ BHARDWAJ I am not casting aspersions. ...*(Interruptions)*

MR. CHAIRMAN. I won't allow *(Interruptions)* .

SHRI HANSRAJ BHARDWAJ I am not casting any aspersion. If there is any such word, it can be deleted The change of public prosecutor is a very important matter A public prosecutor, in the eyes of law, is always an independent person. It is a very high office The sole object is. He should be independent; he should not at all be a partisan person. Why has he been changed? The Law Minister owes an answer to the nation, and any other Minister Why are these public prosecutors being changed? Have they done any misconduct?

श्री सभापति : भारद्वाज जी, थोड़ा समय का भी ध्यान रखें।

SHRI HANSRAJ BHARDWAJ. Okay, Sir I am concluding. Sir, I am very grateful to you for giving me this opportunity. This is an eye opener for this Government. What has happened, Sir? Before I part with, let the Law Minister come. What is happening? Judicial files of our courts are reaching the touts in Delhi. it has happened in Delhi leading to the

arrest of High Court Judge You must discuss this issue also. Where are you leading the country? Sir, again and again, I express my gratitude to you You are upholding a very high tradition You never put anything under the carpet This democracy has to thrive; it will thrive out of openness, out of independence of institutions and those institutions must be preserved. If I will have said anything wrong, I will apologise. Thank you.

SHRI C. RAMACHANDRAIAH (Andhra Pradesh): Sir, it is very unfortunate that once again the issue of Ramajanambhoomi-Babri Masjid, its demolition and all its connected issues have come up for discussion in this House. It has been discussed in this House a number of times Now, the conspiracy of the CBI, the conspiracy of the political leaders to demolish the mosque, or, the absence of the conspiracy, has again consumed so much of time of this august House. There is so much of willingness on the part of every political party to spend any amount of time on this very, very trivial issue And, I feel, it is a non-issue, in so far as 75 per cent of the population of this country is concerned Sir, when the 25 per cent of the people living Below the Poverty Line in this world, are living in this country and when a poor man is worried about his basic necessities such as food, clothing, shelter, sanitation, safe drinking water, etc , to what extent, we are justified in spending so much of our energies and time on non-relevant issues Sir, that is why, a number of times, I appealed to the polity that let us declare moratorium on all these contentious issues, so that all our energies can be concentrated exclusively for the development of this country

(THE DEPUTY CHAIRMAN IN THE CHAIR)

Madam, I would like to quote from the Human Development Report. I quote:

> "Poor people care about what happens to their income levels Poor people care about what their children got into the schools. Poor people care about whether their daughters are discriminated against this term 'access to education'. Poor people care enormously about endemics and infectious diseases such as HIV and AIDS, which are devastating the community And, poor people care a lot about their environment and whether they have access to clean water and sanitation "

Now, we should have an introspection To what extent, we are sensitive to all these issues? We have all the political parties as a polity, and we are ever so eager to engage ourselves in this debate. Sir, my party - Telugu Desam - is supporting N D.A , but our agenda is a single-line agenda, that is, development; that is, improvement, improving the quality of life of millions of citizens of this country And, in that context, alleviation of poverty be placed on the top of the global agenda. That is the only issue that can be recognised today And, this issue now debated is whether CBI has diluted or completely eliminated the conspiracy in the Babri Masjid Demolition case, in which it is alleged that several politicians, who are now Ministers in the present Council of Ministers, stand accused Sir, we should not forget that in the process of settling our political scores on the floor of the House, we cannot, without enough evidence at our command, cast aspersions on organisations like CBI and courts. In fact, till now, some aberrations are there, I do admit, but overall these institutions have been fortunately functioning independent of political pressures and stresses Even if you assume that CBI has been pressurised into filing a revised chargesheet, as most of the friends have been alleging, courts are still there to read through this misuse. That liberty is there; the right is there with the judiciary of this country And, those who are shouting from the rooftops should not forget that they, both at the Centre and in the States, there are umpteen numbers of cases -- I don't want to quote -- they had dropped many criminal cases. It is not that I am trying to justify what has happened because I am yet to ascertain what exactly has happened. But, umpteen numbers of cases are there, where we have tampered with the Constitution; we have withdrawn cases according to our political convenience...*(Interruptions)*...

SHRI PREM CHAND GUPTA (Bihar) : It does not justify the present act

SHRI C. RAMACHANDRAIAH: That's what I am trying to point out. Because, that has been happening according to the convenience of the political parties, where their own leaders are involved, let alone diluting the chargesheets. So, that does not mean that one mischief can cancel the other Madam, I am of strong conviction that law is very strong in this country. The rule of law should prevail in a democratic country like India Nobody can escape from this process. If I remember even persons of high eminence, high status have been prosecuted in this country. Nevertheless,

when substantial allegations are levelled against the people occupying high offices, it becomes their responsibility to clear all the doubts, as saying goes 'Caesar's wife shall be above board'

I am not trying to justify anybody but I am trying to pinpoint how we have been behaving conveniently whenever we get an opportunity I, therefore, request the Government to come out clean on this vexed issue

SHRI NILOTPAL BASU Madam Deputy Chairperson, I thank you for the opportunity given to me to speak on this discussion Madam, at the very outset, we must put on record our appreciation for the Chairman that due to the initiatives taken by him this debate could be facilitated

Madam, I am forced to express my surprise because this is a subject which deals with the role of the CBI, and, I do not see around the Minister in charge of the CBI, who, incidentally, is also our Prime Minister We expect that the Minister in charge of the CBI will reply to this debate, as has been the convention in this country and in this House over the years

So, I think, Madam, if you could request the Government to clarify this point, then, perhaps, this debate could be more meaningful and lead to a more purposeful action Now, I must thank hon'ble Bhardwajji who has initiated this discussion because he has so beautifully presented the whole case in terms of the sequence of developments I need not go into all these legal technicalities about what we are actually wanting to debate Our case is not at all to organise a parallel trial as Mr. Ahluwalia expressed apprehensions It is not our case Our case is that prosecution is an Executive function of the State If there is any failure in prosecution, the Parliament is well within its rights to demand to enforce accountability on the part of the Executive to explain and present its case.

Madam, as an elementary student of parliamentary democracy in this country as well as world over, I understand that prosecution is the basic responsibility of the Executive, and, if the Executive is failing in its responsibility of successfully conducting the prosecution, then, it is answerable to the Parliament It is with that inalienable right of the Parliament, that we had demanded this discussion and we are very rightly having this discussion

Therefore, my question is why the Prime Minister is not here If the CBI has proceeded successfully in prosecuting in this particular case, and, he is the Minister incharge of that department, why is he not around? I, therefore, charge, Madam, that the very act of the Prime Minister being absent on the floor of this House on this very important discussion is a commentary on how the Government looks at the Parliament and looks at its basic responsibility of discharging duties that the Constitution has provided

Madam, I want a specific answer on this, whether the Prime Minister will be around to reply to this debate, as today he is not around I don't go into the merits of the case, what the CBI is expressing in terms of various charge-sheets, I do not also comment on whether it is correct or not The question is whether the CBI originally took this position that the demolition of the Babri Masjid was an act of conspiracy, was a result of a conspiracy Madam, I say this because the entire political discourse in this country for the last one decade and a year has been on this question Here was a monument And, about the site on which the monument stood, there is a legal controversy and it is being adjudicated by the court But, the demolition of that monument was an act which was not permitted by law It had no judicial sanction. Therefore, this act should not have happened. On that score, at a formal level, at the level of discussion, there is no difference of opinion I think, this side and that side, all are agreed that what happened on 6th of December, 1992 should not have happened Where does the difference come? The difference comes on why or how the 6th December, 1992 thing has happened Now, some people tend to argue that it was a spontaneous reaction of a section of the people who had assembled there Now, some of us have argued over the last one decade that it is an act of brazen, organised conspiracy, as a result of which the demolition of the 6th December, 1992 happened And, Bhardwajji has explained how the CBI, through the meticulous collection of evidence and all that, formed the charge that it was an act of conspiracy and who were the players and actors in that game of conspiracy Therefore, dropping the charge of conspiracy under the provision of 120 (B), today in the charge sheet, which has been filed by the CBI in the court, itself goes to show that there is a change in the approach of the CBI Now, the Government has to explain this to us, because the Government is accountable for CBI in the Parliament I again go by the basic norms of the Parliamentary system that if we have questions about CBI, because CBI officials are getting salaries

out of the Consolidated Fund of India, the CBI is answerable to the Parliament. And who will be answerable on behalf of them? It is the Government, it is the Prime Minister in this case who will be answerable for the omissions and commissions of the CBI. Therefore, the Government, the Prime Minister, will have to explain to us as to why CBI has changed its view that it thinks that what happened on the 6th of December, 1992 was not the result of a conspiracy. Because exclusion of 120 (B) only implies that the CBI today does not think that there was a conspiracy as a result of which the demolition of the monument took place. Therefore, what are the circumstances on the basis of which it was being thought? Madam, we are saying this because we are paying. We are seeing a number of cases. Today morning, we had a question on how it becomes the convergence of the prosecution and the accused, if not directly, indirectly. The prosecution and the accused becoming one and the same is creating a situation where the entire effectiveness of the prosecution is getting thoroughly sabotaged. We have a recent case in the Best Bakery. When we discussed this issue last year, the National Human Rights Commission had pointed out that there are major cases in Gujarat, including the case of the heinous incidence on the train in Godhra itself, which should be investigated by the CBI. Now, the hon. Law Minister at that point of time said, "we cannot sabotage the prosecution." Why? "Because our investigation and our initiative for prosecution is at a very advanced stage." Madam, due to paucity of time, I am not going to quote the hon. Law Minister, but he said this. Everybody knows it. And, today, what is the situation? In the Best Bakery case, the prosecution has completely failed. Why? Because there is no evidence. Why is there no evidence? Some witnesses go and say, "Because of the fear prevailing in that particular geographical area in the country, we cannot fearlessly, without a sense of apprehension, give our evidence." Now, is it not the responsibility of the prosecution also to create a conducive atmosphere, so that facts are brought before the hon. Bench? We are not commenting about what is the quality of that evidence, but whether the prosecution is truly and effectively bringing facts which are at its disposal. Now, this is a question which actually distinguishes a mature democracy from an immature democracy. This is one distinction which demarcates a mature democracy from a sham democracy. *(Interruptions)*.

SHRI EKANATH K. THAKUR (Maharashtra): West Bengal has that. *(Interruptions)*

SHRI NILOTPAL BASU We are not discussing West Bengal, we are discussing India

SHRI EKANATH K THAKUR You are speaking about Gujarat also ...*(Interruptions)*.

SHRI B.P. SINGHAL West Bengal is also in India *(Interruptions)*

श्री नीलोत्पल बसु : यह जो आप का लॉजिक है, यह जो आप का तरीका है, यह बहुत अच्छा है। लेकिन मैं आपको बताना चाहता हू कि आप थोड़ा अपने अदर झाक कर देखिए कि किस ने क्या गलती की। ..**(व्यवधान)**... आपको ये सब बाते पसद नहीं आ रही है। . .**(व्यवधान)**

प्रो0 रामबख्श सिंह वर्मा (उत्तर प्रदेश) . इस मे गुजरात कहा से आ गया . **(व्यवधान)**. .

श्री नीलोत्पल बसु : दो नेगेटिव बात से एक पोजिटिव बात पैदा नहीं होगी। किसी ने क्या गलती की, उस से हम को गलती करने का जन्म-सिद्ध अधिकार बनता है? ...**(व्यवधान)**...

श्री कलराज मिश्र : मैडम, 197 का केस तो आलरेडी चल रहा है ...**(व्यवधान)**... 198 मे आडवाणी जी आदि का नाम था ...**(व्यवधान)**...

SHRI NILOTPAL BASU Madam, I have not yielded .*(Interruptions)*...

श्री कलराज मिश्र · उस मे तो कहीं कोई बात सी0बी0आई0 पर नहीं आती ।

SHRI NILOTPAL BASU Madam, I have not yielded *(Interruptions)*

श्री कलराज मिश्र : अब उस को इस तरह से पेट करना मानो सी0बी0आई0 ने कोई अलग से काम किया हो, गलत है।

SHRI NILOTPAL BASU: Madam, first of all, I have not yielded Madam, I have full confidence in the intelligence of all colleagues on both sides If I try to paint in a manner, then they should not accept it as it is They should also apply their understanding, their intelligence and their comprehension. ...*(Interruptions)* I am making my points and I cannot oblige you in what I say This is precisely the difficulty, Madam, that certain people just refuse to understand the lessons of history Today, in both these two very developed democracies, namely, the United States and

Great Britain, major debates are taking place. We adopted a Resolution on Iraq Many people have asked what is the use of it Now, within those countries, the institutions are asserting themselves and trying to find out the truth And that is the way a mature democracy should go about. It is not a question as to who will be the victim of that process. Pranabda has referred to the CB (CID) case What is the decision? The concerned Minister had to step down, before the CBI concluded its investigations, and the person concerned was cleared Because, there is every possibility that if somebody is occupying a high position, and he is a part of the Executive, his presence will, in fact, sabotage the prosecution, as we are seeing in this particular case Therefore, the Government has to explain to us why the CBI which, at one time, found that there was a major conspiracy hatched by a number of leaders to bring down the Babri Masjid monument has dropped the charges made in the charge-sheet in the current case This is needed not merely to discuss Ayodhya because I think the implication of this issue goes far beyond Ayodhya The question is whether the basic principles of democracy will survive in this country or whether the rule of law will survive in this country Somebody was talking about the rule of law--my good friend Ramachandraiah--that law should take its own course But in the law taking its own course, there are also railings needed, and the prosecution is railing. If the railing does not exist, the course will get derailed Therefore, we in our Constitution, or any democracy in their constitution, have provided how to ensure that the law takes its genuine course. And, unfortunately, in this case, the Government has not been able to state very clearly how they are trying to ensure administration of justice in this particular case Madam, I expect you to ask from the Government why the Minister in charge of the CBI is not around for such an important discussion Thank you

श्री जनेश्वर मिश्र (उत्तर प्रदेश) शुक्रिया, मैडम और आपकी मार्फत मै चेयरमेन साहब को ज्यादा धन्यवाद देना चाहता हूँ, जो उन्होने इस सदन मे आज इस विषय पर बहस की इजाजत दे दी। कल जब उन्होने मना किया था तो मै थोड़ा उदास हो गया था और लगा था कि विचार की गगा अब यहां बह नहीं पाएगी और यह शकर जी की जटा मे फस गई है। हमारे यहां हिन्दू धर्म मे शकर जी को भैरो जी भी कहते है तो लगा कि इनकी जटा मे गगा फस गई, लेकिन आज उन्होने कुछ लोगो की तपस्या से इसकी इजाजत दे दी कि इस पर विचार होगा। कल,थोड़ी सी गल्ती हो गई थी, हम लोगो ने बिल्कुल इस सदन में कचहरीनुमा बहस की थी और माननीय विधि मंत्री से मैं कहूंगा, यहां मौजूद हैं, विद्वान आदमी हैं, माननीय कपिल सिब्बल के लिए जिस तरह से उन्होने मुफस्सल शब्द का इस्तेमाल किया था, मुझे अच्छा नहीं लगा। इसको यह भी महसूस करेगे क्योकि हम लोग सभ्य जगह पर बैठे हैं। कभी कभी झगड़ा करते है तो कड़ी भाषा बोलते है, लेकिन बातचीत मे, बहस मे ऐसी भाषा नहीं आती। ..(व्यवधान)...

3.00 P.M.

विधि और न्याय मंत्री तथा वाणिज्य और उद्योग मंत्री (श्री अरुण जेटली) : मैडम, अगर जनेश्वर जी का विचार यह है कि शायद मैने किसी तरह से किसी के लिए कोई व्यक्तिगत शब्द कहा, बिल्कुल नहीं कहा। मेरी नीयत नहीं थी।

श्री जनेश्वर मिश्र : हम कहा कह रहे है कि व्यक्तिगत कहा? वह तो ऐसे कहा जाता है कि ...**(व्यवधान)**...

श्री अरुण जेटली . बिल्कुल नहीं था। मै बहुत ही आदर करता हूँ और इसलिए मै यह स्पष्ट करता हूँ।

श्री जनेश्वर मिश्र मैडम, मै चाहूगा कि यह इतना जजबाती मामला है कि हम लोग आम तौर से उसमे नहीं जाएगे, जैसी सभापति महोदय ने कुछ गाइडलाइन्स दी थीं कि अदालत के बारे मे आप लोग बहस मत करना, न्यायालय को अपनी बहस से बाहर रखना। इसके कुछ रूल्स है। हम तो निजी तौर पर सीबीआई को भी अपनी बहस से बाहर रखना चाहते थे क्योकि हमको यही इम्प्रेशन दिया गया था कि यह दुनिया की एक सबसे निष्पक्ष जाच एजेन्सी है। यह सही है कि कुछ विरोधी पार्टी के लोगों को जब सीबीआई तग करती थी, जैसे लालू यादव जी को भी बहुत तग किया गया था, इनके लिए पलटन तक को बुला लिया था तो हम लोग मानते थे कि केन्द्र सरकार के इशारे पर हो रहा है। आज सबेरे के समय बात आई, क्वैश्चन आवर के समय, कि सीबीआई के एक बहुत बड़े आफीसर के घर मे पता नहीं कौन सा, सब नाजायज किस्म का सामान पकड़ा गया और कोई कार्रवाई नहीं हुई तो हम लोग चिंतित थे। यह वही आफीसर था, जो लालू यादव के लिए पलटन तक बुलाता था कि इनके खिलाफ कार्रवाई करनी है।

प्रो0 रामबख्श सिंह वर्मा · उनके किराएदार थे।

श्री जनेश्वर मिश्र : किराएदार की बात है, तो कल्पनाथ राय ने भी एक गेस्ट-हाऊस मे एक मुजरिम को ठहरने के लिए कहा था और उनको टाडा मे बद कर दिया गया था। . **(व्यवधान)**... किराए पर भी दिया था . .**(व्यवधान)**..

श्री खान गुफरान जाहिदी (उत्तर प्रदेश) . उनके पी0ए0 ने कहा था। ...**(व्यवधान)**...

श्री लालू प्रसाद (बिहार) यहा तो जाली चिट्ठी पर किया है। ...**(व्यवधान)**...

श्री कपिल सिब्बल (बिहार) उनके पी0ए0 ने कहा था। ...**(व्यवधान)**... माननीय अरुण जेटली जी उनके वकील थे।

श्री जनेश्वर मिश्र : मैडम, सी0बी0आई0 थोड़ी बहुत आम जनता की निगाह मे गिर रही है। अभी तक उसका रूप था कि दिल्ली की सरकार अपने विरोधियो को फसाने के लिए इसका इस्तेमाल करती है, अब जो रूप आया है वह यह है कि केन्द्र सरकार अपने लोगो को बचाने के लिए उसका इस्तेमाल करती है। थोड़ा रूप बदल गया है। वैसे वह बचा रही है या नहीं ऐसा कहा नहीं जा सकता क्योकि सी0बी0आई0 प्रधानमत्री जी के मातहत है और उप प्रधानमत्री जी से पार्टी के भीतर क्या रिश्ते है, मैं नहीं जानता। बचाने के नाम पर उनको फसाया भी जा सकता है। मै जानता हू तनाव है इस पार्टी मे । मैं सी0बी0आई0 के बारे मे अभी बहस नहीं करना चाहता क्योकि अहमदाबाद के मामले मे जब एक फैसला हो गया तो मानवाधिकार आयोग ने कहा कि सी0बी0आई0 से जाच कराओ, यह ठीक नहीं हुआ। अब भी लोगो का विश्वास है, इसलिए मै उसके आचरण पर बहस नहीं करना चाहता लेकिन मामला गभीर है और मामला केवल आपके और हमारे बीच का नहीं है, पूरे देश और दुनिया का है। 6 दिसम्बर, 1992 के बाद हिन्दुस्तान की राजनीति का साम्प्रदायीकरण हो गया है। पहले भी हिन्दू-मुसलमान के दगे होते थे - मुरादाबाद मे, अलीगढ़ मे और न जाने कहा-कहा, लेकिन वे वहीं तक सिमट कर रह जाते थे। साइस मे एक शब्द होता है गुड कडक्टर और एक होता है बैड कंडक्टर। लकड़ी बैड कडक्टर होती है, एक सिरे मे जला दीजिए दूसरा सिरा ठडा रहता है। मुरादाबाद मे दगा होता था तो कानपुर ठडा रहता था, इलाहाबाद ठडा रहता था। लेकिन यह जो अयोध्या वाली बात हुई, यह गुड कडक्टर हो गई। लोहा जैसे रहता है न, एक छोर पर गरम कीजिए तो दूसरा छोर भी गरम हो जाता है। यह गुड कंडक्टर हो गया। हम लोग उस समय चेतावनी देते थे कि यह मुरादाबाद, अलीगढ़, इलाहाबाद और बनारस का दगा नहीं होगा, यह गुड कडक्टर का रूप ले लेगा, खतरनाक खेल हो जाएगा और तब से पूरे मुल्क का राजनीतिक माहौल एक साम्प्रदायिक जज्बात के दौर से गुजर रहा है। हम जानते है कि हम लोग आपका विरोध भी करते है अयोध्या के सवाल पर तो आपको फायदा हो रहा है। आप चाहते है कि हम विरोध करे और आप अयोध्या के और राम के हीरो बने रहे । साम्प्रदायिक शक्तियो का विरोध भी साम्प्रदायिक शक्तियो की मदद करता है। और आप तो हीरो बने ही है, कभी भी बोल देगे। क्या-क्या बोलते है, यह कहना मुश्किल है। किस बात के लिए हमको अदालत के बारे मे बोलने से मना किया गया, मैडम, चेयर की तरफ से? क्यो मना किया गया? इस कुर्सी पर बैठे हुए लोगो ने अलग-अलग बाहर बोला है कि अगर अदालत से फैसला नहीं होता है राम मदिर के बारे मे तो एक कानून बना दिया जाए मदिर बनाने के लिए अलग से। यह कंटेम्ट आफ कोर्ट हुआ कि नहीं? कोर्ट मे केस चल रहा है, आप मदिर के लिए अलग से कानून बनाने की बात सोच रहे है, अदालत की अवमानना नहीं हुई क्या? कहीं न कहीं आप प्रभावित नहीं कर रहे है क्या? किस सीमा तक हिम्मत बढ़ रही है और हिम्मत किस सीमा तक बढ़ी है। मैडम, मै सी0बी0आई0 पर जान-बूझकर नहीं बोलता लेकिन सस्थाए इस समय अपने स्थान से नीचे खिसक रही है, फिसल रही है। फिसलन का दौर है यह। सिद्धान्तो के फिसलन का दौर है। आज हमने एक राज्यपाल का बयान पढ़ा है, राज्यपाल पर बहस नहीं होनी चाहिए इस संबंध मे, कि धर्मनिरपेक्षता एक निरर्थक शब्द है और ये वामपथी लोग उसका इस्तेमाल अपने उद्देश्य के लिए करते हैं, धर्मविहीन समाज बनाने के लिए। राज्यपाल ने भी जब शपथ ली होगी तो हिन्दुस्तान के सविधान की सुरक्षा की शपथ ली होगी, उसमे एक धर्मनिरपेक्षता शब्द भी है। तो सस्थाए हैं, बड़ी-बड़ी जगहें है, जिन पर हमको बहस नहीं करनी चाहिए लेकिन वे जगहे अपनी जगह से फिसल रही है। सी0बी0आई0 भी फिसल रही है। हम जानते है कि अदालते भी फिसल रही हैं। पहले न्यायालय

का काम न्याय देना हुआ करता था। अब न्यायालय का काम केवल निर्णय देना होता है। निर्णय और न्याय मे फर्क नहीं रहा। अगर इस जनप्रतिनिधि सस्था ने न्यायालयो को अपनी बहस से ऊपर रखा तो इसलिए रखा कि हिंदुस्तान की जनता की प्रतिनिधि संस्था का सपना था और मानना था कि न्यायालयो से न्याय मिलेगा, जस्टिस मिलेगा, केवल डिसीजन नहीं मिलेगा। डिसीजन और जस्टिस मे जरूर फर्क कीजिएगा।

महोदया, सभी चीजे फिसल सी गई है। ऐसी हालत मे जो कुछ भी हुआ है, वह अनहोनी बात है। इस समय आडवाणी जी भारत के सर्वसत्तासंपन्न व्यक्ति हैं। उनको "लौह पुरुष" कहा जाता है। पटेल साहब को भी कहा जाता था। हम लोग अपने नाम के सामने बहुत ऐडजैक्टिव वगैरह जोड़ लिया करते है। हम नेता लोग खुद या अपने प्रशंसकों से ऐडजैक्टिव जुड़वा लिया करते हैं। उनको ऐसा नहीं करना चाहिए था ...**(व्यवधान)**...

श्री लालू प्रसाद : हम लोग नहीं बोलते है। ताबड़तोड़ तेल मालिश करते हैं। TTM पार्टी है, ताबड़तोड़ तेल मालिश ...**(व्यवधान)**...

श्री जनेश्वर मिश्र : महोदया, सी.बी.आई. ने इसके पहले जो कुछ भी जाच की, जो कुछ भी अदालतो मे पेश किया, गवाहों के जो बयान अखबारो मे छपते रहे है, उनमे साफ-साफ दिखाया गया है कि आडवाणी जी, जोशी जी, उमा भारती जी, ये लोग कार-सेवको को उकसा रहे थे। अखबारो की वह कटिंग मेरे पास है लेकिन मैं हाऊस का समय खराब नहीं करूगा। सी बी आई. बयान दर्ज कर रही थी और बार-बार बोल रही थी कि ये लोग भी हैं उन मुलजिमो मे। हम लोग भी चिंतित थे। राज्य सरकार के एक नोटिफिकेशन के नाम पर यह मामला बहुत दिनो तक फंसा रहा। माननीय भारद्वाज जी ने भी इसकी तरफ इशारा किया। हम लोग जानते थे कि सरकारे मुलजिमो को बचा रही हैं। ऐसा नहीं है कि वह छिपा हुआ केस था। जब मस्जिद गिरी थी तो अखबारो मे और टेलीविजन मे फोटो छपे थे जोशी जी के, उमा भारती जी के, आडवाणी जी के। इलाहाबाद मे हमने अखबारो मे पढ़ा और टी वी पर भी देखा कि वे ऐसे अगुली किए हुए थे। यह विक्टोरिया के जमाने का "V" गुलामी का निशान है लेकिन हम लोग जब चुनाव जीत लेते हैं या कबड्डी जीत लेते है तो लड़के ऐसे करने लगते हैं। बड़ी जगह पर राजनीति करने वालो को यह बचकानी हरकत छोड़ देनी चाहिए क्योकि इससे बहुत से लोगो को चोट लगा करती है।

महोदया, एक बहुत बड़ी आबादी आहत हो गई थी। उस समय श्री नरसिंह राव जी प्रधानमंत्री थे। उन्होंने कहा था कि विध्वस का जवाब निर्माण हुआ करता है। हमने समझा था कि वहा जो कुछ भी बिगड़ा है, ये जल्दी ही वहां बनवा देगे। हमने इलाहाबाद से कहा था कि 6 दिनो के अदर पलटन भेजकर जो कुछ जैसा था, वैसा वहा बना दिया जाए। हमने यह अखबार मे कहा था। तब हमको बहुत से हिंदुओ ने गाली दी थी। कभी-कभी जोखिम भी लिया जाता है। तब से वह कड़वाहट अभी तक मिटी नहीं है। कितने दिनो तक इस मुल्क के माहौल को साप्रदायिकता की कड़वाहट मे हम घोलते रहेगे?

आप कानून बना सकते है। आपका बहुमत है। यहां पास नहीं होगा तो मदिर बनाने का कानून सेट्रल हॉल मे पास करा लीजिएगा। उसमे क्या रखा है? वहा तो आप पास करा ही लेगे। आपका बहुमत है। अगर आपके साथी लोग मदद कर दे तो आप पास करा लेगे। इनके पाले मे, काग्रेस पार्टी के पाले मे क्यो फेकते हो? लेकिन मैं यह कहना चाहता हूं कि कानून से कोई मुल्क नहीं चला करता है। अगर कड़वाहट बनी रह गई तो मुझे दु:ख के साथ कहना पड़ता है कि आप इस मुल्क को बहुत देर तक नहीं चला पाएगे।

मै अटल जी का बहुत सम्मान करता हूं। मैं आडवाणी जी का भी बहुत सम्मान करता हू। मुझे दु.ख के साथ कहना पड़ता है कि अटल जी की मातहती में सी.बी आई. चलती है। वे भारत के प्रधानमत्री है। उनकी सीधे जिम्मेदारी बनती है। सी.बी.आई. ने कह दिया और देश भर मे सदेश चला गया कि सी बी आई 120-बी से आडवाणी, मुरली मनोहर जोशी, उमा भारती और दूसरे लोगो को बरी कर रही है। यह संदेश चला गया। चाहे यह संदेश देश मे न गया हो लेकिन यह सदेश देश के अल्पसख्यको के बीच मे चला गया कि जो हुकूमत कर रहे है वे अपनी ही जाच एजेसी के द्वारा अपने को बचाने की कोशिश कर रहे हैं। अटल जी को सी बी आई की इचार्जी छोड़ देनी चाहिए। या प्रधान मत्री की कुर्सी से इस्तीफा दे देना चाहिए क्योकि उनका एक नैतिक स्वरूप उभर रहा है। आप लोगो ने भी उभारा था। वे आरोप से मुक्त थे लेकिन यह चार्ज लग जाने के बाद सी0बी0आई0 पर

एक सम्मानित सदस्य . आप लगा रहे है।

श्री जनेश्वर मिश्र : हम नहीं लगा रहे है। लोगो के बीच मे चर्चा मे लग रहा है। यह सदन मे लगे या न लगे, हमारा भाषण हो या न हो इसके कोई मायने नहीं हुआ। एक अजीब किस्म की यह बात हो जाएगी देश की राजनीति मे कि एक भी स्वच्छ छवि का आदमी अगर बचा रह गया तो कितनी भी राजनीति गदली हो जाएगी कभी न कभी हम लोग सभाल लेगे, आने वाली कौम सभाल लेगी। इसलिए मैं अटल जी का इस्तीफा मांगूंगा और अटल जी से कहूंगा कि आडवाणी जी, जोशी जी, उमा भारती जी जो उनकी सरकार के लोग है जिन लोगो पर यह आरोप है कि सी0बी0आई0 ने लीपापोती की है, इनके पद का दुरुपयोग हुआ है इन लोगो को अपनी सरकार से बर्खास्त करे। इसके अलावा कोई रास्ता नहीं हे कि इस मुल्क को मजबूती से चलाया जा सके। मैडम, आपको बहुत-बहुत धन्यवाद।

THE MINISTER OF STATE OF THE MINISTRY OF INFORMATION AND BROADCASTING (SHRI RAVI SHANKAR PRASAD): Madam, I have been listening, with great patience, to the learned speeches of hon Members from the other side of this august House. The issue is well known, but the kind of discussion that has taken place and the manner in which sweeping allegations have been made, are all there before us

Madam, I was going through some old papers In the Economic Times of December, 2000, there was a heading, which was very curious and

interesting It was, Congres Does It Again Hijacks Parliament over Ayodhya' Janeshwar Mishraji, there is another heading, 'But SP Questions Party Credentials' I do not know whether this is discussion here, in which we are participating Has it become some kind of a ritual? Since 1993, till 2003, on some issue or the other, the Ayodhya debate has to come about

Madam, what really distresses me is the kind of allegations levelled against us -- that the Government of Mr Vajpayee is trying to influence the CBI Wild allegations were levelled even against Shri Atal Bihari Vajpayee, the hon Prime Minister! A demand was made by Shri Janeshwar Mishra that he should resign

Let me state here one fact The hon Member, Mr Basu, rightly said that prosecution is an Executive act He is right. And the Executive has also got the power to withdraw prosecution That power is available to us Shri Atal Bihari Vajpayee has been the Prime Minister of India for the last five years The NDA has been in power for the last five years We could have withdrawn these cases *(Interruptions)*

SHRI VAYALAR RAVI (Kerala) Without the charge? *(Interruptions)*

उपसभापति : बोलने दीजिए, अभी बोलने तो दीजिए।

SHRI RAVI SHANKAR PRASAD Madam, we didn't .*(Interruptions)*. .We didn't, because we wanted fair trial *(Interruptions)*

ONE HON MEMBER Really!

SHRI RAVI SHANKAR PRASAD Yes The case pertaining to the hijacking of a plane was withdrawn. All the Shah Commission cases were withdrawn We know it The hijacking of a plane by a leader of the Congress Party was withdrawn We know it all But we do not follow that tradition Arjun Singhji is sitting here We know what happened when a division occurred during the regime of Narasimha Rao; we know how eminent leaders of the Congress Party were also subjected to prosecution I do not want to elaborate on that Madhavrao Scindia is now dead He was a very eminent leader of national integrity We know how he was also singled out, in addition to the people from that side That was a classic

case of abuse of the CBI by the Government of the day We do not follow that doctrine, because we want fairness of prosecution

Madam, what kind of politics are we following? There was this Jhabua case Allegations were levelled against organisations close to us. An international campaign was launched Trial took place, but not a word against those organisations! Convictions have taken place Have the people, who levelled those sorts of wild insinuations, said even a word of apology? Janeshwar Mishraji, you are very right that a proper course of polity has to be there And the proper discourse of polity also postulates that, if wild allegations are levelled, and if judgments go to the contrary, then there must be a word of remorse That is equally important That is equally important Madam, let me say with profound respect that the Government of Shri Atal Bihari Vajpayee does not influence the CBI, the Government of Shri Atal Bihari Vajpayee wants that a fair trail should take place Some facts were stated by the hon Members

Madam, I would like to cite here very briefly just two rules Rule 169, Chapter XII, of our rule is about the condition of admissibility says, "It shall not relate to any matter which is under adjudication by the court of law " The word is very clear. The entire tenor of argument ultimately impinges upon an issue which is under adjudication in a court. A discussion is going on

SHRI VAYALAR RAVI. Madam, *(Interruptions)*.

SHRI RAVI SHANKAR PRASAD Madam, I am not yielding. *(Interruptions)*) Madam, I am not yielding

THE DEPUTY CHAIRMAN. Are you raising a point of order?

SHRI VAYALAR RAVI. Yes, Madam, I am raising a point under Rule 169 In his wisdom, the Chairman has given the permission to raise the issue While participating in the debate, the hon Minister is questioning the wisdom of the Chairman Is it allowed?

THE DEPUTY CHAIRMAN. No . *(Interruptions)*...

SHRI B P SINGHAL Madam, the Chairman changed his ruling after it was guaranteed that the things pertaining to that issue will not be discussed, and only administrative issues would be discussed Then, the Chairman permitted it. (Interruptions)

THE DEPUTY CHAIRMAN: The discussion is taking place under the Short Duration Discussion and what rule have you quoted?

SHRI RAVI SHANKAR PRASAD Madam, I have quoted Rule 169 *(Interruptions)*

THE DEPUTY CHAIRMAN The hon Chairman has disallowed it

SHRI RAVI SHANKAR PRASAD Madam, let me explain it Rule 167 says about discussion on matters of public interest, and Short Duration Discussion under Rule 177 also says when it is a matter of public importance Madam, I am participating in the debate The nature of arguments being made is certainly impinging upon infraction of this rule It was my contention

SHRI PRANAB MUKHERJEE (West Bengal) Under Rule 176, there is no prohibition That is why it is under Rule 176

SHRI RAVI SHANKAR PRASAD Let me learn from Pranabbabu Madam, now coming to the facts of the case, selected presentations have been made Madam, this case No 198 was instituted, charge sheet submitted when there was President's rule in the State of Uttar Pradesh, and the Congress Government was in power Madam, not at Rai Bareilly, but a Special Court was constituted at Lalitpur Advaniji and others were arrested at Matadinai in Jhansi District and cognisance was taken on 1 3.1993 I have got the order sheet with me of the Special Magistrate, Lalitpur, Mr Shiv Karan This cognisance was taken under 153(a), 153(b), 505, 147 and 149; not 120(b) Neither in the FIR nor in the order taken cognisance, there was any mention of 120(b) We were not in power We were not in the picture at all Now, Madam, because of geographical location, it was shifted to Rai Bareilly because the Special Court there is closer There it went about The CBI took over the investigation The CBI, all the 47 cases and this case was also sought to be clubbed This matter was also examined in detail by the then Government of Uttar Pradesh under President's Rule

Madam, here I wish to quote from a statement by the U P Government, Special Secretary, filed in the hon Supreme Court of India in criminal M P No 4265-68 of 2001 Let me quote it. "On 9th September, 93, the State Government has issued a notification to create a court of Special Magistrate at Lucknow to try crime No 197 of 92 and 47 other cases. Before issuance of this notification, the question of adding crime No.198 of 92 " -- the case in which Advaniji was there -- "The said notification was examined in detail by the State Government and a conscious decision was taken not to include crime No 198 of 92 in the said notification " This decision was taken when the State was under President's rule and the matter was approved at the level of Adviser to the then Governor.

Madam, a lot of arguments have been made that we are seeking to influence. Here was a case when the State of U.P was under President's rule Who was the Governor? I don't want to name Certainly, he was not from our side The Government in Delhi was headed by Shri Narasimha Rao, a Prime Minister from the Congress Party

The point is, a conscious decision was taken that the case under section 198 should not be clubbed with other cases It was after the approval of the Law Department The decision was taken by the Adviser. Should I say that the then CBI was being influenced? Should we say that the then CBI was biased? If this is the allegation, I am sorry to say, the allegation lies at your door

Madam, the point is, thereafter, when the CBI filed a joint chargesheet, without taking any approval from the Governor or any consent of the hon. High Court--that matter has been explained by him--they found that this clubbing, without the approval of the High Court, was not proper. The matter travelled up to the hon. Supreme Court. Mr. Aslam Bhure filed the case. I just mentioned it, "The State of U.P. be directed to issue the notification Thereafter, the Supreme Court said, "In the light of the affidavit, since a separate court is already there...*(Interruptions)*...

उपसभापति : वे बोल रहे हैं, सुन तो लीजिए।

श्री रवि शंकर प्रसाद : हम बता रहे हैं कि 1993 मे आपकी सरकार थी। आप दिल्ली मे राज कर रहे थे, वहा भी राज कर रहे थे और आपने भी वही किया। Please bear with me . *(Interruptions)* .

श्री जनेश्वर मिश्र : ये बात अच्छी कहते हैं मैडम।

श्री रवि शंकर प्रसाद : आप ही से सीखी है। This decision - now to hold the trial at Rae Bareily--has been brought to the notice of the Supreme Court and the trial is going on

Here, I ask a fundamental question The entire evidence is before the court The charges are there, the FIR is there, the chargesheet is there. But 120B is not there If the evidence says that 120B needs to be added, the court can add that Even if 120B is mentioned in the chargesheet, if the evidence doesn't show to the satisfaction of the court that 120B is made out, the court will not make it. If the court is satisfied on the basis of evidence that the persons alleged as accused are liable to be discharged, the court can discharge them. The point to be noticed here is, what is the issue for debate here? The entire conduct of prosecution was fair, and is fair; and the trial in accordance with the evidence from record is a matter of judicial scrutiny before that court of competent jurisdiction, before which the trial is pending. If that is the case, then we fail to understand the kind of sweeping allegations being made as if the Government is trying to influence the CBI for a particular course of action

Madam, I again repeat with full sense of responsibility that we are in power for the last five years We know our powers in law, the power to withdraw prosecution is there But we never exercised that Here is a case where many people tell us, "There have been a surge of precedents of other Governments who have withdrawn prosecution even illegally." But we believe in a fair trial. If they seek a fair trial, we also want it whether it is Shri Advaniji or others Madam, depositions of witnesses were read. That is not fair. Some allegations were made, "This witness says that and that witness says this." We just heard that. I will not do that for the simple reason that I am aware of the limitation Though I know what witness has said what and what Advaniji was doing and how he was trying to stop--I can read that; we have got copies of that--I shall never do that because that is a matter to be adjudicated by the court But the point to be noticed, Madam, is, certain sweeping allegations will have to be, after all, resisted at some point of time, if we want to have a proper probity in public life, which Janeshwar Mishraji is so fond of

Madam, only one issue has been raised He should not resign or he should resign. We know of cases in our country where Chief Ministers were facing trial There are Chief Ministers facing trials in serious cases. Other cases were called about. Remember one thing, Madam. Instead of making sweeping allegations against the CBI, we must understand that still in the entire country wherever any sensitive cases come about -- we have dozens of PILs in the court, demanding the court, requesting the court that direct this case to be prosecuted by the CBI because people still have trust in the professional competence of the CBI After all, the CBI is an institution I remember when the fodder scam case went to the Supreme Court, an argument was made by the Government of Bihar that let the court monitor it so that everything is fair The court rightly allowed that We appreciate that If that is the kind of development taken, let us not make sweeping comments against a body which is otherwise doing good work. Madam, my one last very respectful submission is that for the last ten years the debate on Ayodhya is going on. Even though people permit opening of locks in Ayodhya, for reasons I do not know, even then they try to make comments, which are at times very curious and interesting In spite of all these debates, in spite of all these accusations, in spite of all these sweeping remarks, we are rising politically and we shall continue to rise politically But here is a point Let us reflect. If we want to find a solution to the problem, if we want to create a conducive atmosphere, perhaps debates like these have to be stopped There is time -- here I see Ramachandraiahji's very telling comments -- to go beyond and perhaps the appropriate time has come

Madam, I am grateful to you for having given me the time

SHRI KAPIL SIBAL : Madam Deputy Chairperson, I thank you for giving me this opportunity. Madam, I rise on behalf of my Party to participate in this momentous debate Madam, this is a saga which is more than ten years old And during the course of these ten years, the CBI has suffered some paralytic attacks from time to time. ...*(Interruptions)*

SHRI B P SINGHAL: It is an aspersion on an organisation .*(Interruptions)* It should be withdrawn. ...*(Interruptions)*.. It is a slur on the premier investigating agency of the country. . .*(Interruptions)*

THE DEPUTY CHAIRMAN I know Mr Kapil Sibal has got tremendous command over English language and Hindi too. I am sure he will find a better word ...*(Interruptions)*...

प्रो0 राम देव भंडारी (बिहार) मैडम, यह इनकी समझ के बाहर की चीज है। ...**(व्यवधान)**... इनकी समझ के बाहर की चीज है। ...**(व्यवधान)**...

THE DEPUTY CHAIRMAN: He may find a better word. ..*(Interruptions)*... For an organisation, we want to retain...*(Interruptions)*.

SHRI KAPIL SIBAL Madam, let me put it in a more ordinary language that the CBI, as we have found out, has been dragging its feet from time to time. In fact, I have the greatest respect for this organisation because whenever offences are committed in any part of the country and the local police does not inspire the confidence of either the State Government or the entities outside of the Government, there is a demand that the matter should be given to the CBI. What does it show? It shows that still there are people in this country who have respect for this organisation and who believe in the impartiality of this organisation. That is why this matter was of greater concern to us because people at large have over the years lots of regards and confidence in this organisation, that it is a matter of great concern that what this organisation has been doing in several cases -- not just one case -- is a matter which disturbs the ordinary man because he is losing confidence in the very functioning of the rule of law of this country That is why we are having this debate and that is why it is an important debate In fact, I might remind my learned friends that it was as far back as 1998 when Mayawatiji was going to vote against the Motion and bring down this Government -- I go back to those years -- just a day before the BJP Government was sworn in at the Centre, the CBI activated two major cases against the former U.P. Chief Minister Mayawatiji Now, what did Mayawati say at that time? I quote, "Mayawati reacted sharply to CBI registering cases against her and said the BJP was attempting to take political revenge as the BSP has decided to vote against the Confidence Motion in the Vajpayee Ministry " These are Ms Mayawati's words, not my words And, what were those cases? Those cases are relating to giving contracts for hand pumps. That was in 1988 Have you heard of those cases in 2003? Do we know anything about those cases that the CBI has taken them forward? Do you remember the days when a lady Chief Minister of a Southern State was in the Opposition and how

quickly the CBI used to react to everything? Remember the times, when Shri Lalu Prasadji, who was opposing this Government, how the CBI used to file application after application in courts requesting the courts to cancel his bail, even when court granted him bail Remember the times that this very CBI, when the Tehelka scandal was before everybody's eyes, was prosecuting Mr Tarun Tejpal Remember the times when this very CBI did not touch Mr Bangaru Laxman and did not touch Mr George Fernandes, but was prosecuting Shankar Sharma! Remember the times when it was prosecuting Mr Anirudh Behl, who was employed with poor Mr Tarun Tejpal and one of the persons involved in Tehelka. And, Madam, Mr. Badal was prosecuted in a poaching case! *(Interruptions)...*

SHRI B P SINGHAL That is the majesty of law man *(Interruptions)...*

SHRI KAPIL SIBAL I know .*(Interruptions).* In a poaching case, the matter was handed over to the CBI and he was kept in prison for six months .*(Interruptions)* There was no bail to him...*(Interruptions)* So, I have great confidence in the CBI I am not saying that I have no confidence in the CBI. What I am worrying about is, this very organisation seems to be getting adrenalin and moving very fast forward in some cases and not moving at all in others And that is the subject matter of debate in respect of Babri Masjid issue.

Madam, let me tell Mr Ravi Shankar Prasad, who is not here, some facts which, perhaps, he is not aware of in this very case and the public does not know about it I have with me here the latest charge-sheet It is called the supplementary charge-sheet filed by the CBI on the 30th May, 2003 I am going to state the facts from this charge-sheet, nothing what the Congress Party says, nothing from my personal knowledge, but from the facts in this charge-sheet What are the facts? The facts are There was a crime, an F.I.R...

SHRI B P SINGHAL: Madam, are we discussing about the facts of the case? Or, are we discussing about the functioning of the CBI? *(Interruptions)...*

प्रो0 राम देव भंडारी : यह पुलिस का मामला नहीं है...(व्यवधान)...

SHRI K. RAHMAN KHAN (Karnataka) . It is a charge-sheet which has already been filed. *(Interruptions)...*

SHRI KAPIL SIBAL: It is a matter of public record We are not discussing the merits of the case..*(Interruptions)...*

SHRI B P SINGHAL: We cannot discuss the details of the case. *(Interruptions)*

श्री लालू प्रसाद : मैडम, माननीय सदस्य सिंहल जी को बताएं कि We are not discussing of police We are discussing the functioning of the CBI.. *(Interruptions)*

प्रो0 राम देव भंडारी : ये दूसरे सिंहल कहा से आ गए...**(व्यवधान)...**

श्री खान गुफरान जाहिदी : मि. रवि ने अभी कहा है...**(व्यवधान)...**

SHRI S.S. AHLUWALIA Madam, are we running a parallel trial in the House..*(Interruptions)*

SHRI KAPIL SIBAL Not at all. *(Interruptions).*

SHRI S.S. AHLUWALIA When we are not doing it, can we discuss the charge-sheet here? *(Interruptions)*

डा0 अबरार अहमद (राजस्थान) मि. रवि ने कहा है...**(व्यवधान)...** उन्होने कहा है...**(व्यवधान)...**

SHRI S S AHLUWALIA. You go to court and let the court decide *(Interruptions)*... Let the court decide what sections and sub-sections should be enforced..*(Interruptions)*... Let the court decide how it is going to take action against the culprits. *(Interruptions)*... The whole matter is *sub judice* and we are discussing here about the functioning of the premier investigating agency of the country...*(Interruptions)*...

SHRI KAPIL SIBAL. If my learned friends want, I will not refer to the charge-sheet, I will state the facts. *(Interruptions)*... I do not even need to refer to charge-sheet. I will just state the facts...*(Interruptions)*...

श्री के0 रहमान खान : अहलुवालिया जी ने उठाया था, डिबेट की बिगनिंग मे कि सी बी आई की चार्जशीट का डिसकशन नहीं होना है...**(व्यवधान)**...

THE DEPUTY CHAIRMAN Mr Kapil Sibal is not going to refer to the charge-sheet *(Interruptions).*

प्रो0 राम देव भंडारी : ये सदन का समय बर्बाद कर रहे है.. **(व्यवधान)**...

THE DEPUTY CHAIRMAN He will only speak. *(Interruptions)*...

श्री खान गुफरान ज़ाहिदी : मि रवि ने कहा है कि सैक्शन 120 (बी) नहीं है...**(व्यवधान)**...

THE DEPUTY CHAIRMAN· Mr. Kapil, please speak *(Interruptions)* You are the one who has to speak .*(Interruptions)* . Please speak *(Interruptions).*

SHRI KAPIL SIBAL· Mr Ravi Shankar referred to it But does not matter I would not refer to it. But let me state the facts *(Interruptions)*

THE DEPUTY CHAIRMAN· He is not referring to it

SHRI KAPIL SIBAL· At least, I can state the facts The facts are, as we know, two FIRs had been lodged -- the FIR 197 of 1992 and the FIR 198 of 1992 Both these FIRs were under investigation The FIR 198 of 1992 was investigated by the CB-CID, which is the special agency of the State In that, Advaniji was an accused A chargesheet, quay that FIR, was submitted on 27th February. Please note that date 27th of February, 1993 The five offences, which Ravi Shankar Prasadji mentioned, for which Advaniji was charged were 157(a), 158(a), 505, 147 and 149 Now, thereafter what happened after the chargesheet was submitted and the court that was trying these offences was at Lalitpur A notification was issued, shifting the court from Lalitpur to Rai Bairelly Thereafter, it was found that this matter should be handed over to the CBI So, the State Government made a request and consented to the handing over of this investigation -- after the chargesheet had been filed -- to the CBI That happened on 25th of August, 1993 When that investigation was handed over to the CBI, the CBI, then, combined both the FIRs -- 197 and 198, and, gave a composite consolidated chargesheet, and filed it in a Special

Court at Lucknow on 5th October, 1993 In that chargesheet, which Bhardawajji read, the allegation of the CBI was Advaniji was guilty under 120 (b) It is not our allegation That chargesheet was called RC-1 of 1993, which means 'registered case 1 of 1993' Advaniji was involved in it After the charge sheet was filed, another supplementary charge sheet was filed on 11th of January, 1996, in which eleven more accused were added, apart from the nine accused which were already there. After 11th January, 1996, the matter was heard by a Special Court at Lucknow The Special Court at Lucknow stated that the conspiracy was hatched by Shri Advani and others That conspiracy started in 1990 and ended on 6th December, 1992 And, gave a *prima facie* finding to that effect *(Interruptions)* And, the statement of more than 700 witnesses were examined More than 700 witnesses! So, a finding was given on the 9th September, 1997 The court passed an order that the accused should appear before the court for the formal framing of the charge on the 17th October, 1997 In between, 33 accused moved a revision petition before the High Court, and got a stay on that order. Then, the matter was decided in the High Court by Justice Bhalla Justice Bhalla upheld the findings of fact and said, "Yes, conspiracy was there " But said, "Unfortunately, when the FIR 198 was transferred to the CBI and a Special Court was set up at Lucknow, at that time, with that transfer, the State Government did not do it in consultation with the High Court " Because of the lack of that consultation, naturally, the High Court said, " therefore, the Special Court cannot try it any more " That is very important However, this is a mere technicality So, the State Government should cure this technicality immediately This happened after 1997 Who was in power in the State Government at that point of time? It was your Government After 1997, Shri Kalyan Singh was in power Thereafter, Shri Rajnath Singh came to power And what is even more significant is this, and this is where the charge lies. The judge in Lucknow said, "Unless a court is appointed, the proceedings against the accused are dropped " The people of this country did not know this. The order of the court was, 'proceedings against the accused are dropped.' Now, if the State Government had not appointed a court and proceedings were dropped, there would be no prosecution against Shri Advaniji. Mr. Ravi Shankar Prasad, that is what you tried to do. You were saying, "We did not want to do anything." That is an order of the court and your State Government *.(Interruptions)* and your State Government. *(Interruptions)*...I expected..*(Interruptions)*.. As a former Minister of Law, I expected you to have those facts, and state those facts candidly before this House *(Interruptions)* So, the result was, they

never issued the notification And what is even more shocking is that the CBI never filed an appeal So, the CBI and the State Government were working in tandem Then what happened? Some public-spirited persons went to the Supreme Court and said, "what is going on? Why is the notification not being issued?" The CBI did not go. I must say that the CBI must be wanting to uphold the rule of law That is why they did not go I assume that because the CBI is such a prime agency, we have such confidence in that CBI, they chose not to go Then what happened was, the Supreme Court said, "Why are you not issuing the notification?" Then Mayawatiji came to court in September, 2002 to their rescue and said, " All right, we will issue the notification, but it goes to Rae Bareilly " They could have issued a notification for a consolidated trial, because is it not unthinkable that a trial in respect of the same incident, at the same place in which *(Interruptions)*

श्री सुरेश पचौरी . मैडम, मेरा आप से अनुरोध है कि सिंहल जी को पूरा अवसर दिया जाए ताकि जब ये बोले ...**(व्यवधान)**... उनकी अच्छी पैरवी कर सके। ...**(व्यवधान)**...

SHRI KAPIL SIBAL Now that you are being exposed in the eyes of the public *(Interruptions)* . don't get worried You see now what had happened Is it not suprising that in the same incidents where the CBI itself had chargesheeted them together, two separate courts are trying two separate sets of accused, who, according to the CBI, are in conspiracy? That is really shocking Anyway, the Supreme Court said, "No; no, you give us a court " Mayawatiji said in September, 2002, "Yes, the court is in Rae Bareilly " Now, comes the more interesting part Then what happened, when the court was constituted, naturally, Madam, the records which were in the Lucknow court had to be sent to the Rae Bareilly court Now, please ask them which records were sent There are only two records that were sent to the Rae Bareilly court The report pertaining to FIR 198 CBCID, and the records pertaining to 23 more witnesses I have got it here. If you want to verifty it, it is all here It is your chargesheet, not mine It is all here So, that entire record; that entire record relating to statements of seven hundred witnesses which implicated Advaniji and everybody else is not even before the Rae Bareilly court *(Interruptions)*. .Is this the rule of law that you are talking about? Is this the rule of law that you are talking about? *(Interruptions)*

प्रो0 रामबक्ष सिंह वर्मा मैडम, दूसरी अदालत मे रिकॉर्ड भेजने का काम किस का है? ...**(व्यवधान)**...

SHRI KAPIL SIBAL Madam, see, what is the motive? Now, let me tell you why the charge of conspiracy is taken away Because under section 10 of the Evidence Act, whenever there is a conspiracy, anything said, done or written by one conspirator will be a relevant fact for proving the conspiracy against another conspirator So, anything said by the karsevaks would be evidence against Mr Advani Anything said in that meeting qua Advani would be evidence against Advani They don't want that evidence to come on record That is why they are dropping 120 (B) Let us not fool the people of this country At least tell us the correct facts You are the Government We are in Opposition We should not do these facts You should have told the correct facts to the court

Now, Madam, there is another fact I want to bring to your notice In the meantime, somebody else has filed the review petition in Supreme Court What is that review petition? Consolidate these two cases It doesn't make sense that some accused are being tried by one court and another accused being tried by another court That means CBI will have to lead the same evidence in two separate courts Why should there be a waste of public trial and public money on this? Therefore, there is a petition filed in the Supreme Court saying review this order and Supreme Court issued notice to the CBI And the CBI should have gone and told the Court " we welcome this" Because, then they will be upholding the rule of law But the CBI has done none of that

SHRI B P SINGHAL CBI should have done on your dictates

SHRI KAPIL SIBAL No, no They must have done on Mr Advani's dictates We agree with you *(Interruptions)* No, no He is right They must not have done on our dictates They must have done on Mr. Advani's dictates Absolutely, we accept that And that is why we are having the debate That is precisely why we are having the debate Namely, that it is time for this country to note that the premier investigating agency in this country is the handmade of those who are in power in this country *(Interruptions)* And they are using that power to destroy whatever this country has stood for in the last 50 years What is democracy all about? What is separation of powers all about? Why do we function as a Legislature? Why is the Executive accountable to this House and to the Lok Sabha? Why is the Judiciary independent? It is because the rule of law must not be besmirched by the foul hands of the Executive. And that

has happened in the Babri Masjid case But why should that be allowed? The Government must come clean and the Government must say "we will direct the CBI", because it is in the public interest The CBI must go and tell the Supreme Court that it is in the public interest that this trial must be consolidated, that this trial must go on in one court because there is no rational basis for saying that these two trials must go on in separate courts Therefore, Madam, without taking much time of this hon House, I request that the Government must come clean, the Government must uphold the rule of law and let us not get the feeling that the agencies which are investigating, the accused who are part of this Government are doing something in favour of this Government Madam, one last word I want to say that in other jurisdictions we have developed the concept of an independent prosecutor In Europe, in the United States, you have prosecutors who are independent of the Government, public-spirited people who know the law, who will prosecute any and everybody so that they are away from the Executive In some other countries in South Asia, there is a separate agency of the Judiciary itself which takes care of these things So, I think it it is time and let us be a little more constructive because many such cases will come, not just Advani's case, but there will be many such cases in the future We need, therefore, the people to have confidence in our investigating agencies Therefore, it is time that let us be constructive, let us all think about setting up the office of an independent prosecutor A man like Mr Nariman would be an ideal choice Because, he stands for certain values and we know that in his hands prosecutions would be safe We need people like that. Otherwise, we will be making allegations against each other Tomorrow, when you are on this side, you will make allegations against us That is not right That is not good for the democracy. That is not good for the institution. With these words, Madam, I thank you very much for having given me this opportunity.

श्री लालू प्रसाद (बिहार) धन्यवाद महोदया।

मैडम, हमारे माननीय सदस्य, इस देश के विद्वान वकील और माननीय सासद श्री कपिल सिब्बल जी ने अभी जो बहुत विस्तार से चर्चा की है, उससे हमारी सहमति है। महोदया, कास्पिरेसी मेरे कहने से नहीं है, यह दस्तावेज बताता है और दुनिया को मालूम है। महोदया, आपको पता होगा कि भागलपुर, बिहार मे बड़ा भारी साम्प्रदायिक दगा हुआ था और बिहार सरकार ने, हम लोगो ने, जब हमारी पार्टी और हम सरकार मे आए तो एक कमीशन आफ इक्वायरी बिठाया। जस्टिस आर0एन0 प्रसाद उसके चेयरमैन थे और जस्टिस शमसुल हसन तथा जस्टिस राम चन्द्र सिंह उसके मैम्बर थे। उस इक्वायरी कमीशन ने पूरी गहराई से चारो तरफ

जाच करके यह इस्टेब्लिश किया कि हजारो लोग बिहार के भागलपुर के दगे मे मारे गए, डेड बॉडी को मिट्टी के अदर गाढा गया, उसके ऊपर फूल पौधे की खेती हुई, दुनियाभर मे बिहार का और बिहारियो का नाम बदनाम किया गया कि ऐसा राज्य है बिहार जहा इसान को कत्ल करके और अब उस पर फूल -पौधे की खेती हो रही है। महोदया, इस षडयत्र मे आडवाणी जी कैसे शरीक रहे है, इसकी पृष्ठभूमि मे मै कुछ कहना चाहता हू । हम भी वकील है, हमने तो जेल मे वकालत पास की, प्रेक्टिस नहीं की। हमारे माननीय राज्य मत्री श्री रवि शकर प्रसाद जी और जेटली जी ये बहुत विद्वान लोग हैं और केस को कैसे तोड़-मरोड़ दिया जाता है और किस क्लाइट के विषय मे कब क्या बहस करना है ...**(व्यवधान)**...

उपसभापति : मैने अभी टेबल वालो को बोला है कि मुझे वे किताब लाकर दे जिसमे कि यह सब है जो लोग बता रहे है। मिनिस्टर साहब मुझे दे दे। प्रोसिक्यूशन मे कौन सी दफा बोली जा रही है, मुझे तो पता ही नहीं है।

श्री लालू प्रसाद मैडम, षडयत्र का जो डेफिनेशन है मीटिंग आफ माइड एड कॉमन इटेशन, आप पहले सुन लीजिए न कि किस मुकदमे की किस पृष्ठभूमि मे मै आ रहा हू। मैने वकालत जेल मे पास की है, प्रेक्टिस नहीं की है। महोदया, तो यह जो भागलपुर दगे पर कमीशन बना और जिसमे रिवार्ड मिला श्री रवि शकर प्रसाद को और बिहार के कई लोगो को इनाम मिला मत्री बनने का, उस भागलपुर कमीशन की जो रिपोर्ट है उसमे कमीशन ने कहा कि आडवाणी की रथ यात्रा का ही परिणाम था कि भागलपुर मे इतने बड़े पैमाने पर दगे हुए और हजारो लोग मारे गए।

SHRI ARUN JAITLEY Madam, I have a point of order

THE DEPUTY CHAIRMAN He is on a point of order.

SHRI ARUN JAITLEY Madam, my point of order is that the hon. Member is referring to a subject matter which is wholly extraneous to this motion My second point in reply is, what he says is factually incorrect because, every observation that he is making has been expunged by the Patna High Court because the same was made without compliance of the Procedure under Commissions of Inquiry Act

उपसभापति लालू जी, तो अभी वह मत कहिए।

श्री लालू प्रसाद महोदया, मै आ रहा हू पृष्ठभूमि मे। पृष्ठभूमि मै बता रहा हू।

श्री अरुण जेटली . और यह भी याद रखिए कि कमीशन मे एक जज मैम्बर थे और जब वे एक मैम्बर इनकी बात नही मान रहे थे तो हिन्दुस्तान के इतिहास मे पहली बार ऐसा हुआ कि रिपोर्ट लिखने के समय कमीशन का कोरम बढ़ाकर एक से तीन कर दिया गया और टू अगेस्ट वन के बहुमत से उस कमीशन की रिपोर्ट लिखी गई। ...**(व्यवधान)**...

4.00 P.M.

श्री लालू प्रसाद : महोदया, ये गलत बयानी कर रहे है। .. **(व्यवधान)** ये गलत बयानी कर रहे है। .. **(व्यवधान)**.

श्री कपिल सिब्बल : आपने गुजरात मे क्या किया? ...**(व्यवधान)**...

उपसभापति : लालू जी, जो बात फैक्चुअली करेक्ट नहीं है, आप बहस मे न कहे। उन्होने जो ऑब्जैक्शन उठाया है, आप उसका जवाब दे दीजिए कि यह सही है या गलत है।

श्री लालू प्रसाद : महोदया, यह रिपोर्ट प्रकाशित हुई और बिहार सरकार ने कार्यवाही शुरू करनी चाही। जब हमने कार्यवाही शुरू की तो ये लोग भागे-भागे पटना हाईकोर्ट मे गए और हाईकोर्ट मे कोई कोअर्सिव ऐक्शन सरकार न ले, इस पर यह बात आई थी। उसको हम लोगो ने समाप्त नही किया है। हम उस पर आगे कार्यवाही कर रहे है। इसलिए इनका यह कहना है।

महोदया, मेरा यह कहना है कि किस तरह से पूरा सघ परिवार, विश्व हिंदू परिषद, भाजपा और जितने इनके आर्गनाइजेशस है, इनका उद्देश्य था बाबरी मस्जिद को ढहाने का। बाबरी मस्जिद को गिराने के बाद इस देश मे जितना नुकसान हुआ जान और माल का, वह छिपा हुआ नही है। दुनिया भर मे हमारी हसी हुई। अब यह जो कानूनी बात है, जो रिकॉर्ड की बात है, वह माननीय सदस्य सिब्बल साहब ने हमारे सामने रखी है। कल्याण सिंह जी ने साफ-साफ कहा कि हमको बलि का बकरा बनाया गया।

[उपसभाध्यक्ष (श्री सतोष बागड़ोदिया) पीठासीन हुए]

"आडवाणी और जोशी के कारण ढाचा गिरा।" किसने गिराया? "आडवाणी और जोशी के कारण गिरा ढाचा - सी बी आई ", यह 6 जुलाई, 2003 को सी बी आई ने कहा। महोदय, फिर खबर आई कि आडवाणी और जोशी ने उकसाया कारसेवको को। कारसेवक, जिन पर अभी मुकदमे चल रहे है, इनके ऊपर ब्रैटर्निंग हो रही है, धमकिया दी जा रही है जान से मारने की। इस देश मे दो तरह का कानून चल रहा है। सी बी आई का किस तरह से इन लोगो ने दुरुपयोग किया, अब यह इस देश को समझ आ चुका है। इसलिए हम इस बहस को ज्यादा आगे नही बढ़ाना चाहते है। यह जो भाजपा के लोग है, इनको आप कुछ भी कहिएगा, ये रात मे कुछ बोलेगे और सवेरे जब इनका कान पकड़ा जाएगा तो ये बदल जाते है। Threaten logy मे ये लोग विख्यात है। Threaten logy मे इन्होने पी एच डी ली है ...**(व्यवधान)**...

मै बैठे-बैठे कह रहा था कि जिस व्यक्ति ने बाबरी मस्जिद के ढाचे को गिरवाया, आडवाणी जी ने, मुरली मनोहर जोशी जी ने, उमा भारती जी ने, वे "लौह पुरुष" नहीं हो सकते। इस देश मे "लौह पुरुष" एक ही हो सकता है - सरदार पटेल, जिनको हम "लौह पुरुष" मानते है। दूसरा "लौह पुरुष" इन लोगो ने बना दिया। इस देश मे एक बीमारी पैदा हो गई है। किसी भी नेता को खुश करना हो, बेवकूफ बनाना हो तो जो मन मे आए बोल दो। इसको हम बोलते है TTM की बीमारी यानी ताबड़तोड़ तेल मालिश करने की बीमारी। ताबड़तोड़ तेल मालिश करके इन्होने आडवाणी जी को "लौह पुरुष" बना दिया। ऐसा "लौह पुरुष" जिसने एक आस्था के स्थान को ढहाने का काम किया। आज देश मे जो आतकवाद फैला है, आतकवाद मे जो इजाफा हुआ

है, जो हमले हो रहे हैं, इसकी तह मे जाने के लिए इनको चिंतन बैठक मे विचार करना चाहिए था। इसके सीधे जिम्मेदार आडवाणी जी हैं। सब रोगों का एक ही कारण है और वह व्यक्ति है लाल कृष्ण आडवाणी और ये जो बाबा है, हमारे प्रधानमंत्री, इनका परमानेंट छुट्टी इन लोगो ने कर दी है। मैं भीतर की बात बताता हू, मिश्र जी ने ठीक कहा कि इनसे भी पाप करवा लिया। सी0बी0आई0 के इचार्ज प्रधान मंत्री जी है। आडवाणी जी, मुरली मनोहर जोशी जी पता नहीं कोर्ट में क्या तर्क-वितर्क करेगे लेकिन प्रधान मत्री का इसमे सीधा इंवोल्वमेंट हो गया है सी0बी0आई0 का इस्तेमाल करके। सी0बी0आई0 बुरी सस्था नहीं थी विगत दिनों मे महोदय। लेकिन किस तरह से सी0बी0आई0 को सुप्रीम कोर्ट ने भी कहा है कि तीन साल का टर्म होना चाहिए वहा के डायरेक्टर का और वहा कोई हस्तक्षेप नहीं होना चाहिए। उसके ऊपर विजिलेस कमीशन बनाया गया ताकि कोई गलत काम न हो। लेकिन इस मामले मे आडवाणी जी को बचाने मे और मुरली मनोहर जोशी जी को बचाने मे सी0बी0आई0 का इस्तेमाल हुआ। सी0बी0आई0 ने जो व्यवहार हमारे साथ किया वही व्यवहार इनके साथ होना चाहिए था और करना चाहिए। अगर यह नहीं करते है तो आने वाला भारत तथा आने वाली सरकार इनको हम बख्शने वाले नहीं है, इनको छोड़ने वाले नहीं है। इनकी तो विदाई हो रही है। किस तरह से आख में धूल झोकने का काम किया है। इतना अनैतिक काम किया है कि जिस व्यक्ति को जेल जाना चाहिए उसको 120बी से बरी कर दिया। हम मांग करते है कि तत्काल प्रधान मत्री जी इस्तीफा करे और अगर इस्तीफा से बचना चाहते हैं तो साफ-साफ देश को और कोर्ट को बताए कि सी0बी0आई0 के द्वारा जो उन्होने 120बी का मुकदमा इनके ऊपर से वापिस किया है उसमे उनको चार्ज किया जाए जो पूर्ववत् था तथा जिसे सी0बी0आई0 ने किया था अन्यथा इस मामले की यहा सिर्फ चर्चा से ही नहीं हम खेत और खलिहानो मे, देश मे चारो तरफ, देश की जनता के सामने इनकी पोल खोलेगे कि ये कैसे लोग है। क्या नैतिकता की बात करते थे, क्या पारदर्शिता की बात करते थे, उमछ-उमछ कर के एड़िया रगड़ कर बोलते थे कि बिहार मे लोग पशुओ का चारा खा जाते है। ये इस तरह की बात करते थे। आज एक-एक घपला - चाहे तहलका टेप का मामला हो, जितना शेयर घोटाला हो, यू0टी0आई0 घोटाला हो, कॉफिन घोटाला हो सारा घोटाला इस सरकार मे हुआ है और जब हथकड़ी लगने वाली है तो सी0बी0आई0 का दुरुपयोग करके मुकदमा वापिस किया गया। मुझे भीतर से पता है कि सी0बी0आई0 के अधिकारियो को जलील करके, सी0बी0आई0 के अफसरो को डरा करके इस मुकदमे से उनको बरी कराया गया है। महोदय, मैं आपसे माग करता हू कि उन पर पूर्ववत् मुकदमा चले। हम मांग करते हैं कि प्रधान मत्री जी इसके लिए सीधे दोषी है और वे इस्तीफा करे और इस्तीफा करके देश से माफी मागे कि हमने यह गलत काम किया एक आदमी को बचाने मे जिसने मस्जिद को गिराने का काम किया। ये इस तरह के लोग है। महोदय, दिन में ये कुछ बोलते हैं, कभी इनका नेता कुछ बोलेगा, नायडु जी कुछ बोलेगे, तोगड़िया कुछ बोलेगे, सिंहल जी के भाई कुछ बोलेगे, इस्तीफा मागेगे। सब टी0वी0 मे बाते आती हैं। जब फिर कोई बात आती है तो बोलते हैं कि हमने इस तरह की बात नहीं बोली है, हमने ऐसा कुछ नहीं कहा था। आपको पता है कि आपकी क्रेडिबिलिटी गिरी है, आपकी साख गिरी है, जो गलत बयानबाजी करते थे, सकल्प लेते थे उससे आपका कितना नीचे ग्राफ गया है। अब जो चुनाव आने वाला है, शौरी जी, मैं आपको बतलाता हू कि आप गलत लोगो के साथ फस गए हैं। ये चुनाव मे जीत कर नहीं आने वाले हैं और नहीं आने पर या आने पर पैसे आने का तो सवाल ही नहीं है तथा एक-एक पाई का हिसाब लिया जाएगा जो आपने किया है सत्ता के मोह मे। आप 25 तारीख को भूल

जाते है। प्रधान मत्री जी लोक सभा मे बोलते थे कि नेहरू जी ने कहा कि अटल एक दिन प्रधान मत्री बनेगा। जो इस देश मे नेता स्वर्गवास कर जाते हैं, स्वर्गवास करने के बाद किसी के साथ डेरोगेटरी शब्द का इस्तेमाल नहीं होता। रवि शंकर जी, 25 तारीख को, 26 तारीख को जो एमरजेसी लगा था जिसे मरहूम इदिरा जी ने लगाया था उसका काग्रेस पार्टी को दड मिला। जिस तरह से नेशनल टी0वी0 पर आडवाणी जी को प्रोजक्ट किया जा रहा था। जिस तरह से मिनट-मिनट कहा जा रहा था - तानाशाह इदिरा, तानाशाह इंदिरा, यह आपको शोभा देता है? शर्म नहीं आती? इस देश मे हमने क्या किया? ...(**व्यवधान**)... हमने क्या किया था? ...(**व्यवधान**)... महोदय, इन लोगो ने इमरजेसी को भुनाने का काम किया। हमने क्या किया? इनके एक-एक चाहे तेरह सौ सर सचालक हो, सारे बिहार मे आर.एस.एस. के लोगों पर इदिरा जी का जब डडा पड़ना शुरू हुआ, जेल जाने लगे तो सब लोगो ने लिखित माफी मांगी कि हम इदिरा जी के बीस सूत्री कार्यक्रम का समर्थन करते है और छूटने के बाद उसे अमली जामा पहनाएगे। इस तरफ के सारे माफी मांगने वाले लोग भारत के इतिहास को बदल रहे हैं और काग्रेस पार्टी ने इमरजेसी लगाई ...(**व्यवधान**)... काग्रेस इमरजेसी से ...(**व्यवधान**)...

उपसभाध्यक्ष (श्री सतोष बागड़ोदिया) . इटरप्शन मत कीजिए।

श्री लालू प्रसाद : काग्रेस पार्टी इमरजेसी से नहीं गई, वह तो नसबदी से गई। महोदय, इस तरह से काग्रेस को, मरहूम इदिरा जी को अपमानित किया नेशनल टी.वी. पर । हम कैसे लोग थे? सन् 77 मे हमारी सरकार थी, जे पी जीवित थे जसलोक अस्पताल मे और लोक सभा मे कडोलेस कर दिया, शोक सभा कर दी । इस तरह के लोग, जे पी आदोलन मे माफी मागने वाले लोग आज कहते है कि इदिरा जी तानाशाह थीं। ...(**व्यवधान**)... इसलिए हम मांग करते हैं कि प्रधान मत्री इस्तीफा दे। इससे बड़ा दूसरा और कोई स्कैडल नहीं हो सकता है। बाबरी मस्जिद को गिरा कर अपराधियो को बचाकर देश मे अमन-चैन नहीं लाया जा सकता है, सुकून नहीं लाया जा सकता है। इसलिए हम इस्तीफे की मांग करते हैं और जिस तरह से मेरे मामले मे हम बोल रहे थे कि हम कल सरेडर करेगे और यू.एन विश्वास - इतना बड़ा रैकेटीयर - जिसके घर मे निकला और जेटली जी बोलते हैं किराएदार ! ऊपर उसका घर, नीचे भी उसका घर। निचले घर मे अगर तरकारी भी छौकी जाएगी तो ऊपर वाले को महकेगी कि इसके यहा मछली बन रही है, इसके यहा मुर्गा बन रहा है और यू.एन.विश्वास को मालूम नहीं है ! अफीम बन रही है और एक विदेशी को ...(**व्यवधान**)... जाली चिट्ठी पर ...(**व्यवधान**)...

उपसभाध्यक्ष (श्री संतोष बागड़ोदिया) : सिंहल जी, आप इटरप्शन मत कीजिए। क्यो इटरप्शन कर रहे है? आप बैठ जाइए। आप इनको बोलने दीजिए और कोई न बोले।

श्री लालू प्रसाद : महोदय, सी बी.आई. से हमारा ग्रीवैन्स हो सकता है। कौन-कौन थे हमे फसाने वाले - मै यहा कहना नहीं चाहता, मै कोर्ट मे कहूगा लेकिन यू.एन.विश्वास को एक बार नहीं, बी.जे.पी ने इनको अपने साथ लेकर दो-दो बार इनको एक्सटेशन दिया। गवर्नर बनाने जा रहे थे, दुमका से प्रधान मत्री को फोन किया कि आप इस आदमी को गवर्नर बना रहे है? लेकिन इस आदमी को इनाम दिया गया। दुनिया मे हमारी साख गिरी है। सी बी आई के बारे मे

दुनिया भर मे और भारत मे भी लोग बोलते हैं कि ऐसा आदमी सी बी आई मे कैसे चला गया? बी.जे पी. के सारे लोगो ने सी बी आई का इस्तेमाल किया, उस व्यक्ति का। सी बी आई एक तरफ और यू.एन. विश्वास और कम्बाइन्ड बी.जे.पी. एक तरफ। धारा 120-बी मे जहा हमने 41 मुकदमे किए थे, सारा रिकॉर्ड हमने सीज किया था, सारे डॉक्युमेट हमने दिए थे by the order of the Supreme Court और महोदय, हम पर धारा 120-बी मे मुकदमा किया कि आपने एक्सटेंशन दिया है लेकिन तुमने तो एक्सटेशन दो-दो बार दिया है। हमारा एक्सटेशन देना मुख्य मत्री के परव्यू मे आता है, हमारे अधिकार मे आता है और उस समय हमने दिया लेकिन महोदय, हमे यह रिवार्ड दिया गया वहा। यहा पर गला दाबकर प्रधान मंत्री का, हमको पता है कि मुकदमे को, धारा 120-बी से इन चारो नेताओ को बरी करने का, वापस करने का काम हुआ है। इन दोनो घटनाओ ने देश के जनमानस को दहलाया है और देश हिला है कि कैसे लोग यहां बैठे हुए हैं। इसलिए हम मांग नहीं, मांग क्या, हम चाहते है। न्याय और कानून सबके लिए बराबर होता है चाहे प्रधान मत्री हो या कोई आदमी धन्ना शाह हो, कानून की नजर मे सब बराबर हैं। जो भी एक्सप्लेनशन देना है, आप कोर्ट मे जाकर दीजिए। किस तरह से हमारे बच्चे-बच्चियो को, हमारी पत्नी को, राबड़ी देवी को, घर पर जाकर रेड किया गया। वह पिछड़ी जाति की थी। उस पर कोई मुकदमा नहीं था। बिहार के चीफ मिनिस्टर बिहार की जनता की अमानत है। उनका मुकदमे मे नाम नहीं था, हमारी राबड़ी देवी के घर रेड किया गया। जिसमे कुछ नहीं पाया। फाउन्ड नथिंग। आल दि गवर्नमेट प्रोपर्टी फाउन्ड। इसी तरह की बात हुई । यहा साक्षात जिस व्यक्ति ने हमारे बच्चो और हमको टार्चर किया, एक पॉलिटीकल आदमी को टार्चर किया। इस तरह से राजनेता के घर मे, अगर किसी भी नेता के घर मे एक किलो गांजा मिल जाए तो सीधे उस नेता को बन्द किया जाएगा। लेकिन इन लोगो ने बचाने का काम किया। महोदय, मेरे पास यह चिट्ठी है। यह आदमी इस जोन का ...मै यह बताना चाहता हू कि किस तरह से काम हो रहा है। दीजिए सीबीआई को। हम मानते है।इस पूरे भ्रष्टाचार को सीबीआई को दे दो। प्रधानमत्री जी को देखिए। एक कैसा आदमी सीबीआई मे घुसा था। जिस तरह से सीबीआई की यह इमारत हिली है, जिस तरह से बोला है, जब यह पहले पकड़ा गया तो बोला कि अफसर ने हमारी अनुशसा की है, फिर बोला नहीं-नहीं मिजोरम गवर्नमेट ने हमको दिया है। हमारी अनुशसा की है। यह अनुशसा पत्र है। सौ एकड़ का लैड, दो हजार मे नहीं मिलता। यह लीज लैंड है, ऊपर -नीचे घर है, आपकी म्युनिसिपैलिटी ने दिया है। किसी क्लर्क ने लिखा है, कोलकाता मे मिजोरम का आफिस है। इसमे लिखा है कि To whomsoever it may concern; This is to certify that Mr Thanga -- he is a drug mafia, he is a foreigner जो मैं बता रहा हूं वह इसमे नहीं लिखा है, जो हम लोगों को पता है और वह abscond कर रहा है -- is well-known to me and as such I have not found any objection why he should not stay at Kolkata, not at यू एन विश्वास के घर मे....महोदय, हमारी तरफ भी ध्यान दीजिए। लिखना -पढ़ना तो जारी रहेगा लेकिन जो अलार्मिंग बात हुई है इस देश मे। इस पर यह चिट्ठी है। मैं इस पर दस्तखत करके, प्रमाणित करके देता हूं। इस आधार पर आपके किराएदार यह बहाना बना रहे है। ये किराएदार, ओनस उसका है। ये किरायदार नहीं, इस रेकेट मे दुनियाभर के लोग शामिल है। दुनियाभर मे जो आतंकवाद फला-फूला है और जो हथियार आ रहे हैं, पाकिस्तान से या कहीं से या म्यामार से, पांच चाइनीज पकड़े गए और एक बर्मी पकड़ा गया। यह ये स्वय कर रहा है। इसको दे दिया और इसको

(उपसभापति पीठासीन हुईं)

गवाह बना दिया। बहाना बना रहा है कि यह मामला सब ज्यूडिस है। क्या कोई कोर्ट ने आर्डर किया है? चार्जशीट भी दिया है, उसको भी फाइल करके, सप्लीमेंट्री चार्जशीट करके। हम उस केस को देख सकते हैं, लेकिन किस तरह से इन लोगो ने नाम दिया । महोदया, ये हमारे माननीय सासद हैं सॉल्ट लेक मे, वहीं ज्योति बाबू का भी घर पड़ता है। आप मनी रिसीट देखिए। ये भी मैं दस्तखत करके टेबल पर रख देता हू। अगर ये बात गलत हो तो रिकार्ड मगाया जाए और अगर ये बात झुठ हो तो आपको जो सजा देनी है, आप हमे दीजिएगा। आपका दो हजार का सॉल्ट लेक मे मकान। जबकि हम भी गांव मे रहते हैं और आप भी रहते हैं। आपके बगल मे, पड़ौस में ,अगर मुर्गा बनेगा तो उसकी सब जगह गध आती है, सुवास देता है। ये तो ऊपर ही है। इनका ऊपर घर और नीचे घर ।ऐसा आदमी को जब पुलिस खोजने लगी और सीबीआई भी खोजने लगे कि भाई किधर गया यू.एन. बिश्वास? वह आकर दिल्ली मे बैठा है, दिल्ली में जार्ज के घर में बैठा है और घर मे जाकर आडवाणी जी को पकड़ा गया और कहा गया कि इसी आदमी के चलते लालू को जो फंसाया, इसी के चलते बिहार से ज्यादा से ज्यादा एमपी बनकर आए, इसी वजह से बिहार से इनकी सरकार बनी। किस तरह से ये बदलते हैं? आपने ऐसा पाप वहा किया। यहा पर आपने जब बाबरी मस्जिद जो हमारे लिए दुनिया मे, इस देश को हिलाने वाली है। जो घटना आज भी ताजा है और लोग सहमे हुए हैं। अपराधियो को बचाया जाएगा। इसलिए कि डिप्टी प्राइम मिनिस्टर हैं, इसलिए कि मंत्री है। ऐसे यह देश नहीं चल सकता है। मैडम, हम सी.बी.आई को दोष नहीं देते हैं लेकिन सी.बी.आई को और हर पुलिसकर्मी को, हर ब्यूरोक्रेट को याद रखना चाहिए। हम जे.पी. के अनुयायी हैं। जे.पी. ने कहा था कि गलत आदेश का पालन मत करना, गलत आदेश को मत मानना, गलत आदेश का पालन नहीं करना लेकिन इस देश मे ब्यूरोक्रेसी मे भी बीमारी आ गई है। किसी को रिटायरमेंट के बाद गवर्नर बनना है, किसी को कुछ बनना है, किसी को कुछ बनना है, किसी को चेयरमैन बनना है, किसी को राज्य सभा मे मैम्बर बनना है। सिंहल साहब डी.जी. थे। इन्हें डी.जी. कैसे बनाया गया? जिस पार्टी मे थे, ये उस समय जहां रहे होगे कितना कम्युनली इनका माइन्ड काम करता होगा। पुलिस में इनको भी बना दिया गया ...**(व्यवधान)**... बना दिया गया तो बना दिया गया... हम मांग करते हैं कि उनसे ...**(व्यवधान)**... प्रधानमंत्री इस्तीफा ...**(व्यवधान)**... करे, देश से माफी मांगे, कोर्ट में मुकदमा जुर्म के तहत चलाया जाए, माइनोरिटी से माफी मागी जाए तभी इस देश में अमन-चैन और एक विश्वास पैदा होगा कि नहीं यह देश हमारे लिए भी है। माइनोरिटी, अलग-थलग पड़ी है। यह सबका देश है। ये बोलते हैं कि हम माइनोरिटी को मनाएंगे। मुकदमे से बचाकर माइनोरिटी को मना रहे हैं। इनको बिठाकर, ये जो हमारे मंत्री शाहनवाज जी हैं, जहाज मे थे, इनको मना किया था कि नए जहाज खरीदने वाले हैं, दस्तखत मत करना, फसा देंगे । क्योकि मुस्लिम हैं, माइनोरिटी हैं। इनको हटा दिया। इनको धन्यवाद देते हैं क्योकि ये तैयार नहीं हुए। लेकिन अब जहाज खरीदने की तैयारी हो रही है। ये जब बिहार आए तो पूछा गया कि जहाज से क्यो हटा दिया? बोले कि मैने अपना चुनकर टैक्सटाइल विभाग लिया है।

उपसभापति : कह रहे है तो लिया ही होगा ...**(व्यवधान)**...

श्री लालू प्रसाद : पूछिए, ये बैठे हैं यहा पर...**(व्यवधान)**... टैक्सटाइल मिनिस्ट्री, जो मरी पड़ी है, उसे इन्होने चुनकर मागा है। इस सबध मे आप कृपा करे ।

उपसभापति : वे इसीलिए गए हैं कि उसे जिंदा करेंगे। श्री संजय निरुपम।

श्री संजय निरुपम (महाराष्ट्र) . उपसभापति जी, लालू जी के जोरदार भाषण के बाद आपने मुझे बोलने की अनुमति दी। लालू जी का भाषण, जो इमरजेंसी से शुरू हुआ था यू.एन विश्वास से होते हुए बाबरी मस्जिद तक पहुंचा। लालू जी, सिर्फ इतनी सी बात बताऊंगा कि जो अयोध्या का प्रश्न है...**(व्यवधान)**...

श्री लालू प्रसाद : मैडम, ये हमारे बिहार के है, हम लोग इन्हे मानते है। अच्छे युवक है, अच्छा बोलते हैं लेकिन गलत सेना में फंस गए है। आप इस सेना से निकलिए।

श्री संजय निरुपम : मैडम, जैसे लालू जी मुझे मानते हैं वैसे ही मैं भी लालू जी को बहुत मानता हूं लेकिन दुख होता है कि बिहार के लोगो ने इतनी ताकत, इतनी क्षमता इनको दी,इसके बावजूद इनके नेतृत्व मे बिहार और नीचे जा रहा है, बिहार का पतन हो रहा है। इसीलिए थोड़ा दुख होता है। बाकी आप मुझे मानते हैं, बड़ी खुशी होती है और मैं भी आपको बहुत मानता हूं लेकिन बिहार को आप जितना निबटा रहे हैं, जितना बर्बाद कर रहे हैं, थोड़ा-सा ताकत का फायदा उठाकर, इसका उपयोग करते हुए बिहार के विकास की दिशा मे काम कर डालिए।

श्री लालू प्रसाद : महोदया, ये मुम्बई मे गए हैं, वहां बिहारियो को पीटा जा रहा है, इनकी पार्टी के द्वारा कहा जा रहा है कि कोई दुकान, या इनसे कोई सामान मत खरीदो। बिहार ने आपको संस्कृति दी। बिहार की वजह से आप छठ वगैरह करवा रहे हैं, इसके लिए धन्यवाद देता हूं।

श्री संजय निरुपम : लालू जी, सिर्फ इतना बता देता हूं मुम्बई में अगर एक भी बिहारी को किसी ने हाथ लगाया तो उसे बचाने के लिए मै वहां पर हूं। मुम्बई के बिहारियो को आपकी जरूरत नहीं है इसलिए आप आराम से बिहार मे रहिए। हम लोग वहां पर बिहार के लोगो के लिए काम कर रहे हैं। उपसभापति महोदया, कल से जो विषय उठा है, उस विषय पर आज भी चर्चा हो रही है। चर्चा मुख्य तौर पर बॉबरी मस्जिद के विध्वस मे, उस पूरे मामले की छानबीन मे सीबीआई की भूमिका पर है। मुझे कहा कि सिर्फ कानूनी पक्ष से बोलिए, लेकिन मेरे से पहले के वक्ताओ ने क्या-क्या बोला और कितने पक्षो पर बोला इसको भी हमे याद रखना चाहिए। सब से पहले मैं यह स्पष्ट कर दू कि अयोध्या का मामला, कानून और अदालत से ऊपर का मामला है। यह सीधे भावनाओं से जुड़ा हुआ प्रश्न है। ...**(व्यवधान)**... मै कहां इंकार कर रहा हूं। मै आपकी भावनाओ से कहां इंकार कर रहा हू। ...**(व्यवधान)**... मैं आपकी भावनाओ से इकार नहीं कर रहा हूं। मुझे उनकी भावनाओ पर कोई एतराज नहीं है। जिनको बाबर, राम से ज्यादा पसद है, उनकी भावनाओं पर मुझे कोई एतराज नहीं है, लेकिन मुझे ज्यादा विश्वास, ज्यादा आदर राम के प्रति है और अपनी यह भावना मैं यहां पर प्रकट कर रहा हूं। ...**(व्यवधान)**...

डा0 प्रभा ठाकुर (राजस्थान): मामला सीबीआई की जांच का है। ...**(व्यवधान)**...

श्री सजय निरुपम : 6 दिसंबर, 1992 को जो बाबरी ढाचा टूटा या तोड़ा गया या ढह गया, क्या वह एक आपराधिक षडयत्र था, मेरे कहने का आशय यह है और इसलिए 120-बी के लिए विशेष तौर पर आग्रह किया जा रहा है। मैने यह पता लगाने की कोशिश की कि सीआरपीसी की धारा 120-बी मे क्या है। तो वह सीधे-सीधे एक क्रिमिनल कस्पीरेसी से जुड़ी हुई बात है। 6 दिसबर, 1992 से लगभग 6-7 साल पहले तक इस देश मे अयोध्या मे, जहां रामलला विराजते हैं, जो उनका गर्भगृह है, उसे किसी जमाने मे, जब हिन्दू गुलाम हुआ करते थे, तब किसी हमलावर ने तोड़ करके, अपने ऑका के नाम पर एक मस्जिद बना दी थी। ...**(व्यवधान)**... उस हमलावर के कुकृत्य को, उसके द्वारा भारत की आजादी को लगाए गए कलक को मिटाने के लिए लगभग 6-7 वर्ष से जनआंदोलन चल रहा था और उसी जनआदोलन की 6 दिसंबर, 1992 को जब कारसेवा हो रही थी, परिणति भी हुई।

डा0 अबरार अहमद : मेरा प्वायंट् ऑफ् ऑर्डर है। मैडम, जो विषय है वह सीबीआई ने माननीय आडवाणी जी ...**(व्यवधान)**...

उपसभापति : अभी विषय की बात मत उठाइये क्योकि ...**(व्यवधान)**... अबरार साहब, अभी अगर आप प्वायट् ऑफ् ऑर्डर के तौर पर रेज कर रहे हैं तो, then I will have to give a ruling I don't think that many of the speakers stuck to that point So, it is irrelevant for you to put this question at this stage. When Laluji was speaking, you were sitting quiet over here. Why didn't your raise it? Please sit down

श्री संजय निरुपम : उपसभापति महोदया, 6 दिसबर, 1992 को जो कुछ हुआ ...**(व्यवधान)**...

श्री लालू प्रसाद : मैडम, आपने मेरा नाम ले लिया।

उपसभापति : वह तो लेना ही चाहिए।

श्री लालू प्रसाद : हम प्वायट् से इधर-उधर क्या एक अक्षर भी गए?

श्री संजय निरुपम : आप कहीं नहीं गए।

उपसभापति : आप खाली कोलकाता गए थे।

श्री संजय निरुपम : कोलकाता और पटना, फाइनली मुबई तक पहुच गए।

उपसभापति महोदया, मुझे सिर्फ यह कहना है और अपनी तरफ से मैं यह कहना चाह रहा हूं कि जब बहुत बड़ा जनआंदोलन होता है तो उसमें कोई षडयंत्र नहीं होता, वह सब कुछ सार्वजनिक होता है। 6 दिसबर, 1992 को अयोध्या मे कारसेवा होने वाली थी। कारसेवा करने

के लिए लाखो लोग, लाखो हिन्दू वहां पर जमा हुए थे, जिन नेताओ ने, जिन हिन्दू नेताओं ने इस आंदोलन को शुरू किया था, इसका नेतृत्व किया था वे सारे के सारे हिन्दू नेता वहा पर उपस्थित थे। बिल्कुल उसी तरह से लाल कृष्ण आडवाणी जी भी वहां पर उपस्थित थे, अशोक सिंहल जी थे, डा0 मुरली मनोहर जोशी जी थे, उमा भारती थीं, साधवी ऋतंभरा थीं। ...(व्यवधान)...

श्री लालू प्रसाद : तोड़ने मे?

उपसभापति : बोलिए ना। ..(व्यवधान)...

श्री संजय निरुपम : किसको तकलीफ हो रही है, तकलीफ आपको होती है। ....(व्यवधान)... अच्छा हुआ, कलक मिटाया गया ...(व्यवधान)...

श्री लालू प्रसाद : बोलिए ना तोड़ा गया ..(व्यवधान)...

श्री संजय निरुपम : किसने मना किया ...(व्यवधान)... अब मेरा कहना यह है कि जो केस बनाया जा रहा है कि 120 ड्रॉप नहीं होना चाहिए था, उसके लिए सिर्फ यह तर्क दिया जा रहा है कि चूंकि वह एक क्रिमिनल कस्पीरेसी थी, आपराधिक षडयंत्र था तो 120-बी इसलिए होना चाहिए ...। मैं आगे बताऊगा कि सी0बी0आई0 ने सचमुच ड्राप किया या नहीं किया, लेकिन मेरा कहना यह है कि अगर वह क्रिमिनल कास्पिरेसी होती तो इतना बड़ा जन-आंदोन नहीं होता। यह इतना बड़ा जन-आंदोलन था और इतने बड़े जन-आदोलन मे किसी प्रकार का षडयत्र नहीं होता । इसलिए जब कोई षडयंत्र था ही नहीं तो सी0बी0आई0 ने इस तरह का कोई निर्णय लिया है, यह मैं नहीं मान रहा हूं। ऐसा कोई निर्णय सी0बी0आई0 की तरफ से नहीं लिया गया है, इसलिए इसे षडयत्र की सज्ञा देकर एक नये षडयत्र की साजिश न रची जाए। मैडम, सी0बी0आई0 के सामने जो सात सौ गवाह आए थे जैसा कि कपिल सिब्बल जी ने याद दिलाया कि सात सौ गवाहो ने अपनी गवाही दी, उस मे जो एक महत्वपूर्ण गवाह है, मैं आप की अनुमति से उनकी दो लाइंस पढ़कर सुनाऊंगा। वह गवाह हैं कुमारी अंजू गुप्ता और वह आडवाणी जी को पायलट करते हुए फैजाबाद लेकर गयी थीं। कुमारी अंजू गुप्ता ने सी0बी0आई0 के सामने अपना बयान पेश किया, अपनी गवाही पेश की। उस मे कहा कि करीब 11 बजकर 50 मिनट पर मैंने मुख्य सड़क से देखा कि भारी मात्रा मे लोग राम जन्मभूमि परिसर की ओर दौड़ रहे हैं और कह रहे है कि चढ़ो। चारो, तरफ से विवादित ढाचे की ओर दौड़ रहे हैं, बैठखाने तोड़ रहे हैं। मैंने कट्रोल रूम को फोर्स भेजने के लिए कहा। मैने कुछ लड़को को कुबेर टोला की तरफ विभिन्न औजार लिए ढांचे की तरफ जाते हुए देखा। तब श्री लाल कृष्ण आडवाणी ने मुझ से पूछा कि मस्जिद के अदर क्या हो रहा है। मैंने कट्रोल रूम से पूछा तो मालूम हुआ कि कार-सेवक उस में घुस गए है और ढाचे को तोड़ने मे व्यस्त हैं। तब मैने इन को यह भी बताया कि बहुत से लोग घायल हो गए हैं और उन को राम कथा कुज के पास चिकित्सा के लिए लाया जा रहा है। तब आडवाणी ने कहा कि मैं जाकर लोगो को उतरने के लिए कहता हू। मैडम, यह आडवाणी जी नहीं कह रहे हैं, यह अंजू गुप्ता, जो आई0पी0एस0 थीं और जो उनकी सेक्युरिटी इंचार्ज थीं, वह कह रही हैं। अब आडवाणी जी कह रहे हैं, मैने एस0पी0 इंटैलीजेस और 15 बटालियन कमांडेट

को जो कि मुरली मनोहर जोशी के साथ थे . . इस मे आगे इस तरह की बातें हैं। तो वहां आडवाणी जी के साथ जो महिला उस समय थीं और जो सुरक्षा-कर्मी उन के साथ थीं वह कह रही हैं।

श्री खान गुफरान ज़ाहिदी : आप यहा गवाहों के बयान क्यो पेश कर रहे है ...(व्यवधान)...

श्री संजय निरुपम : क्योंकि गवाहों के बयान ही इस मे मायने रखते हैं। इस मे आप के भाषण का, लालू जी के भाषण का या मेरे भाषण का महत्व नहीं है। अगर इस पूरे कार्यक्रम में किसी के बयान का महत्व है तो आडवाणी जी के साथ जो लोग उपस्थित थे और जो बतौर गवाह बयान दे रहे हैं, उन का महत्व है । इसलिए मैं उस बयान को आप के समक्ष रख रहा हूं, सदन को बताने की कोशिश कर रहा हूं।

श्री सुरेश पचौरी : मैडम, जब कपिल सिब्बल जी पढ़ रहे थे तो आपत्ति आई थी और कहा गया कि गवाहो का वक्तव्य पढ़ा जाता है तो वह परमिसिबल नहीं था, अब हम भी उन गवाहो के वक्तव्य पढ़ेगे जिन्होने आडवाणी जी के खिलाफ बयान दिए थे। इसलिए हम आप से डायरेक्शन चाहते हैं कि उमा भारती और मुरली मनोहर जोशी के संबंध मे जो बात गवाहो ने कही है क्या उसे नियमानुसार सदन मे पढा जा सकता है?

THE DEPUTY CHAIRMAN: Let me get it cleared. *.(Interruptions)...* It is not evidence It is a report!

SHRI SANJAY NIRUPAM: Madam, it is evidence.

THE DEPUTY CHAIRMAN: Is it a report of the police?

SHRI SANJAY NIRUPAM: Madam, it is a statement made by a witness. Kumari Anju Gupta made this statement before the CBI as a witness *.(Interruptions)...*

SHRI SURESH PACHOURI: Madam, he is reading it against the rules and the directions given by the Chairman. अहलुवालिया जी खुद कह रहे हैं कि यह अदालत नहीं, गवाह के बयान नहीं पढ़े जा सकते।

THE DEPUTY CHAIRMAN: गवाह के बयान न पढ़ें। They have asked me to give my ruling*....(Interruptions)...* Don't read the statement *...(Interruptions)*. . Either both of you give the ruling or allow me to give my ruling*...(Interruptions)*. . The whole thing is*...(Interruptions)...* Please. Dr Abrar Ahmed, please sit down. I know you have a very strong point of order,

according to you. But I have given my ruling What I am saying is that if it is evidence which has come before the court, do not mention it But, if it is a report by an official, and it is on record, then you can If it is a Police officer's report, then you can, because it is part of the record

श्री संजय निरुपम : उपसभापति महोदया, जब कपिल सिब्बल जी, कानून के इतने बड़े ज्ञाता, अपना भाषण दे रहे थे तो उन्होने बताया कि सीबीआई ने 700 गवाहो की गवाही ली। इसको कोट किया उन्होने। तो उन गवाहो की चर्चा करते हुए मै अपनी बात रख सकता हूँ, गवाही को कोट कर सकता हूँ ।...**(व्यवधान)**...

श्री सुरेश पचौरी : अगले स्पीकर को कागज दे देते है ताकि वे पढ़ेगे, वे बता देगे कि उन गवाहो ने आडवाणी जी, उमा भारती जी, डा0 मुरली मनोहर जोशी साहब के बारे मे क्या कहा?...**(व्यवधान)**...

प्रो0 रामबक्ष सिंह वर्मा : ये सारे गवाहो के बयान तो जो दोषी रहता है उसको उसकी कॉपी मिली है, सुरेश पचौरी जी को कहां से यह कापी मिल गई?

श्री सुरेश पचौरी : अगर राज खोलूगा तो आपकी मिनिस्टरी मे क्या हो रहा है, उसकी कापी भी ले लीजिएगा। ...**(व्यवधान)**...

THE DEPUTY CHAIRMAN Now, let us not.. *(Interruptions)*...

श्री लालू प्रसाद : मैडम, चेयर से निदेश हो, माननीय सदस्य से गवाह की, कोर्ट की, कोई आफीसर की रिपोर्ट मंगा लीजिए। सर्टिफाइड कापी मंगवा लीजिए, वह गवाह की है या पुलिस की है?...**(व्यवधान)**...

THE DEPUTY CHAIRMAN अच्छा, आप मुझे दिखा दीजिएगा। Let me examine it, and I will give my ruling

श्री लालू प्रसाद : नहीं, नहीं, ऐसी कापी नहीं है, ऐसे ही लिख लिए है।

उपसभापति लालू जी, मुझे देखने दीजिए। बिना देखे मै किसी सर्टिफिकेट को नहीं मानती।

डा0 अबरार अहमद : मैडम, इसमे एक और महत्वपूर्ण बात आप बोल रहे हैं। अगर इस गवाह की बात को सही माना जाए तो आडवाणी जी को कोट किया है कि उन्होने इसको मस्जिद माना है। ...**(व्यवधान)**...

THE DEPUTY CHAIRMAN: Anyway, now go ahead. बोलिए।

श्री संजय निरुपम : मैडम, ढांचा गिरने के बाद जो एक केस रजिस्टर्ड किया गया था, उस केस का नंबर है 198/92, जिसमें कहीं 120(बी) नहीं है। वह एक एफआईआर है, फर्स्ट इंफोरमेशन रिपोर्ट, यानि घटना के तुरन्त बाद जो पहली रिपोर्ट तैयार होती है और जो स्थानीय पुलिस, लोकल पुलिस रजिस्टर्ड करती है। उस लोकल पुलिस ने जब वह केस रजिस्टर्ड किया तो उसने किसी भी प्रकार का आपराधिक षडयंत्र नहीं देखा। उसके बाद उस आधार पर छानबीन, कार्रवाई शुरू हुई। उसके बाद जब सीबीआई को पूरा मामला दिया गया तो उसने 49 केसेस को क्लब करके एक नया केस लखनऊ कोर्ट मे दायर किया और उसमें कोर्ट ने कहा कि आपने जिस तरीके से क्लबिंग किया है, वह दोषपूर्ण है, डिफेक्टिव है। बस इतनी सी बात है, कोर्ट ने कहा कि जो क्लबिंग किया गया है वह दोषपूर्ण है, डिफेक्टिव है।

मैडम, अब हमारा पहला सवाल तो यही है कि केस नंबर 198/92 मे 120(बी) नहीं था, यानि जो लोकल पुलिस आफीसर ने, स्थानीय पुलिस ने थाने मे केस दायर किया, उसमे उनको 120(बी) का मामला नहीं दिखा, तब उसके कई महीने बाद सीबीआई ने उसमे 120(बी) का मामला कैसे देखा? इसका अर्थ यह हो गया कि उस समय सीबीआई को उस समय की सरकार ने मैनेज किया होगा या सीबीआई पर किसी तरह का प्रेसर डाला होगा। अब ऐसा आरोप लग रहा है, जिन लोगो की उस समय दिल्ली मे सरकार थी, उन लोगों ने ऐसा आरोप लगाना शुरू किया कि आपने सीबीआई को मैनेज किया और इसलिए उसमे 120 (बी) का मामला ड्रॉप कर दिया। सचमुच मे ड्रॉप किया गया या नहीं, वह आगे की बात है। यानि आपने पहले सीबीआई को प्रेसराइज करके जबरदस्ती आपराधिक षडयंत्र का मामला बनाया और अब जब सीबीआई ने किन्हीं कारणो से 120 (बी) ड्रॉप किया या नहीं किया तो आपको अचानक महसूस होने लगा कि इस समय जो दिल्ली में सरकार है वह सरकार सीबीआई को प्रेसराइज कर रही है, मैनेज कर रही है यानि सीबीआई को दबाव मे डाल रही है। लालू जी को समझ मे आ जाएगा, बिहार में एक कहावत मे कहते हैं कि चोर की दाढ़ी मे तिनका । यानी आपने जो अपराध किया है ...(व्यवधान)...

श्री लालू प्रसाद : नहीं, चोर मचाए शोर। ...(व्यवधान)...

श्री संजय निरुपम : आपका भाषण इतनी देर से मैं सुन रहा था, उसका अर्थ मैं समझ गया। मैडम, मूल जो मामला दर्ज किया गया उसमे अपराधिक षडयंत्र का मामला नहीं था। रायबरेली कोर्ट में जो केस चल रहा था, उसमे अपराधिक षडयंत्र का मामला नहीं था। बाकी जहां-कहीं भी अयोध्या के मामले मे इतनी इंक्वायरी हो रही है, इतनी छान-बीन हो रही है, इतनी अदालते लगी हुई है कि हम जो नियमित तौर पर अयोध्या के मामले पर नज़र रखने वाले हैं, हम भी कई बार कन्फयूज हो जाते हैं कि क्या चल रहा है, कहां क्या हो गया। सच यह है कि अयोध्या के प्रश्न को जितनी जल्दी हो, सॉल्व किया जाए। हमको बार-बार अदालत की बात सिखलाई जाती है, लोकतंत्र की दुहाई देकर हमें कहा जाता है कि अदालत पर विश्वास रखिए, अदालत जो फैसला करेगी आपको मानना पड़ेगा। इस तरफ के सारे के सारे साथी यह भूल गए हैं कि शाहबानो केस मे भी सुप्रीम कोर्ट ने कोई आदेश दिया था और उस आदेश को इस तरफ के लोगो ने स्वीकार नहीं किया, ठुकरा दिया था। अब आप कहेंगे कि बहुत घिसा-पिटा मामला है, यार तुम लोग हमेशा एक ही तर्क लेकर आते हो।

श्री राजीव शुक्ल (उत्तर प्रदेश) पार्लियामेंट से कानून पास हुआ था।

श्री संजय निरुपम : पार्लियामेंट से आपने ही कराया था न, आपकी ही सत्ता थी न उस वक्त। लेकिन मैं बोलता हूं कि ठीक है, अब वह तर्क मैंने वापिस ले लिया है, मैं आज का ताजा मामला बताता हू आपको। आज सुप्रीम कोर्ट का फैसला आया है, उसने सरकार को निर्देश दिया है कि कॉमन सिविल कोड लागू किया जाना चाहिए।

श्री संतोष बागड़ोदिया (राजस्थान) . मैडम, ये विषय से भटक रहे हैं।

श्री संजय निरुपम : देखिए उस तरफ तकलीफ होने लगी। जो अदालत की बात करते है, डेमोक्रेसी की बात करते हैं उनको तुरंत तकलीफ होने लगी। ...**(व्यवधान)**...

श्रीमती शबाना आजमी (नाम-निर्देशित): शाहबानो केस मे मैं बोली थी कि गलत किया गया है। ...**(व्यवधान)**... It was wrong. . *(Interruptions)*...

श्री संजय निरुपम : ठीक है, क्या बोला था आपने कि यह अदालत का मामला था। फिर अदालत का आदेश आज आया है कि कामन सिविल कोड इस देश मे लागू किया जाना चाहिए और यह सरकार की जिम्मेदारी है और इस बात की व्यवस्था इस देश के संविधान में है। ...**(व्यवधान)**... मै कुछ और कह रहा हू। उस समय अदालत का मामला था इसलिए उन्हें सपोर्ट किया, शाहबानो के प्रति सहानुभूति थी, सपोर्ट किया, अदालत का प्रश्न था सपोर्ट किया। ...**(व्यवधान)**.

SHRIMATI SHABANA AZMI It was wrong. *(Interruptions)*... I was one of the first persons to say that. ...*(Interruptions)*

श्री संजय निरुपम : मैं यही समझा रहा हू कि उस समय अदालत का मामला था, आपने सपोर्ट किया। आज फिर एक अदालत का आदेश आया है, आज क्यो नही सपोर्ट करतीं? ...**(व्यवधान)**... आप बोल रही हैं कि आप विषय से भटक रहे हैं, जब लालू जी विषय से भटक रहे थे तो चुपचाप कान में उंगली डालकर सोई थीं आप। आप जो बार-बार हमको अदालत की बात सिखलाते हैं आपसे मैं सवाल पूछ रहा हूं कि आज सुप्रीम कोर्ट ने एक आदेश दिया है, एक फैसला दिया है क्या उस फैसले को उस तरफ के सारे के सारे लोग मानने को तैयार हैं? क्या आप सुप्रीम कोर्ट के इस फैसले को मानने को तैयार है कि हा इस देश मे कॉमन सिविल कोड आना चाहिए? अगर आप सुप्रीम कोर्ट के इस आदेश को मानने को तैयार हैं तो मैं भी अपने विश्वास को थोड़ी देर के लिए किनारे रखकर अदालत के आदेश को मानने के लिए तैयार हो जाऊगा। ...**(व्यवधान)**... मैं एनडीए के बिहाफ पर नहीं बोल रहा हू, शिव सेना के बिहाफ पर बोल रहा हू, इसलिए शिव सेना का प्वाइट आफ व्यू रख सकता हू। ...**(व्यवधान)**...

SHRI MANOJ BHATTACHARYA (West Bengal): What is he trying to refer? It is absolutely irrelevant ...*(Interruptions)*

श्री संजय निरुपम : सबसे ज्यादा रिलेवेंट आप लोग हैं, हम कुछ भी बोलेंगे it is absolutely irrelevant? ...**(व्यवधान)**...

मैडम, मेरा निवेदन केवल इतना है कि अयोध्या के इस प्रश्न का जितनी जल्दी हो समाधान होना चाहिए। भगवान राम अदालत और सीबीआई से जुड़े प्रश्न मे नहीं आते। भगवान राम एक विश्वास का विषय है और मेरे विश्वास को अगर आप चोट पहुचाएंगे तो जैसे आपको माइनॉरिटी के नाम पर तकलीफ होती है न, वैसे ही मुझे भी बहुत तकलीफ होती है। आप जो बोलते है कि माइनॉरिटी को चोट लगी है तो आप सबसे पहले यह बताइए कि क्या उस मंदिर को तोड़कर जिन लोगो ने मस्जिद बनाई, क्या इस देश की मेजॉरिटी को इस बात का दुख नहीं है, क्या उन्हे चोट नहीं पहुंचती है? ...**(व्यवधान)**...

SHRI MANOJ BHATTACHARYA: Come to the subject . *(Interruptions)*... What is the proof?

श्री संजय निरुपम : क्या मस्जिद को बाबर उठाकर लेकर आए थे, स्ट्रक्चर बनाकर लाए थे क्या? ...**(व्यवधान)**...

श्री अबू आसिम आजमी (उत्तर प्रदेश) : कोर्ट जो फैसला करेगी उसे मानना होगा। ...**(व्यवधान)**...

श्री संजय निरुपम : इतिहास मे ये सारे तथ्य मौजूद है कि मुगलकाल मे कितने मंदिर तोड़कर मस्जिदे बनाई गईं। इतिहास मे सब कुछ उपलब्ध है। अगर आपको अपने इतिहास पर विश्वास नहीं है, उस पर गर्व नहीं है, उस पर आपको शर्म आती है तो यह आपका प्रॉब्लम है, यह मेरा प्रॉब्लम नहीं है ।

डा. प्रभा ठाकुर : मैडम, मेरा एक प्वाइंट ऑफ ऑर्डर है कि माननीय सदस्य विषय से बिल्कुल भटककर बात कर रहे हैं ...**(व्यवधान)**...

श्री संजय निरुपम : आपने बहुत अच्छा कहा कि कोर्ट पर विश्वास है, कोर्ट जो फैसला करेगी, मानेगे। तो मैं यही पूछ रहा हूं कि आज सुप्रीम कोर्ट का जो फैसला है, क्या आप उसको मानने को तैयार हैं? आप क्यो नहीं सरकार से कहते हैं कि मुझे सुप्रीम कोर्ट में विश्वास है, आप संविधान के अनुसार सिविल कोड लेकर आइए। संविधान इस तरह की व्यवस्था देता है ...**(व्यवधान)**... बाबरी मस्जिद तो अब इस जन्म में वहां पर नहीं बनने वाली है। हम भी यहीं हैं। हम देखते रहेंगे। देखते हैं कौन बनाकर दिखाता है। हम आज यहां पर घोषणा करके जा रहे हैं कि कोई माई का लाल वहां पर बाबरी मस्जिद नहीं बना सकता है। हम आपके सामने यह घोषणा करके जा रहे हैं ...**(व्यवधान)**...

श्री लालू प्रसाद : बाबरी मस्जिद नहीं बनेगी तो बी.जे.पी. का वोट वाला मंदिर भी नहीं बनेगा ...**(व्यवधान)**...

श्री संजय निरुपम : आप मे जितनी ताकत है, आप लगाकर देखिए। अब मदिर बनकर रहेगा। मैं आपको चुनौती देता हूं कि मदिर वहीं बनेगा। हमने सौगंध राम की खाई है, मंदिर वहीं बनेगा। आप नहीं रोक सकते, कोई नहीं रोक सकता ...**(व्यवधान)**... मदिर वहीं बनेगा। अब प्रश्न यह उठता है कि मंदिर कैसे बनना चाहिए ...**(व्यवधान)**...

प्रो0 राम देव भंडारी : स्वीकार करो कि आपने मस्जिद तोड़ी थी। स्वीकार करो . .**(व्यवधान)**...

श्री राजीव शुक्ल . मैडम, यह बहस एक गलत दिशा की ओर जा रही है . .**(व्यवधान)**...

श्री लालू प्रसाद : इन्होने तो इतिहास से राम को निकाल दिया था ...**(व्यवधान)**...

उपसभापति : बैठिए, लालू जी, आप कृपया अपना स्थान ग्रहण कीजिए ...**(व्यवधान)**... अगर इस तरह की बहस हाऊस मे होगी तो उसका यही नतीजा होगा। उससे कोई निर्णय नहीं निकलेगा। जो बहस हो रही है, उससे कोई निर्णय निकलने वाला नहीं है क्योंकि यह सब्जैक्ट ही ऐसा है। यह बहस इसी ओर मुड़ने वाली है ...**(व्यवधान)**...

If you are serious about the matter, if you are really concerned about getting the correct investigation, then I request all the Members that you better talk about the subject Everybody is going beyond the point

मैं सिर्फ आपको नहीं कह रही हू। जितने भी भाषण यहा हुए हैं, मै उनके बारे मे भी कह रही हू कि अलग-अलग तरह की बाते यहां पर हुई है। मै यहा सुन रही हूं ...**(व्यवधान)**...

श्री राजीव शुक्ल : महोदया, यह बहस सी.बी आई. के रोल पर हो रही है ...**(व्यवधान)**...

उपसभापति : सी.बी आई का रोल क्या है, क्या नहीं है, इस पर बोलिए। आप इश्यूज पर बोलिए, फैक्ट्स पर बोलिए, तो कोई नतीजा निकल सकता है। अगर आप फैक्ट्स के बाहर जाएंगे तो यही होने वाला है।

श्री संजय निरुपम : महोदया, दुर्भाग्यवश इस पूरे विषय को पिछले 10 वर्षों से कांग्रेस और उसकी साथी पार्टियो ने एक राजनीतिक विषय बनाकर छोड़ दिया है। जब तक यह राजनीतिक विषय रहेगा, कभी भी चर्चा स्वस्थ नहीं हो सकती है। इस पूरे विषय को राजनीति से ऊपर उठकर हैडल करना चाहिए, उसकी व्याख्या करनी चाहिए और इस पर चर्चा करनी चाहिए। तब कहीं जाकर इसका समाधान होगा।

इसलिए मै आपके माध्यम से इस हाऊस से निवेदन करना चाहता हू कि अब समय आ गया है कि पिछले 10 वर्षों से हम हर दूसरे दिन, हर हफ्ते, हर महीने, हर साल इस विषय पर

नोकझोक करते रहते हैं, बेहतर यह होगा कि इस विषय पर एक नया विधेयक लाया जाए और इस बारे मे कानून बनाया जाए। जिस तरह से सोमनाथ मंदिर का पुनर्निर्माण हुआ था, अयोध्या मे उसी तरह से भगवान राम के जन्मस्थान पर मदिर बनाकर हमेशा-हमेशा के लिए इस बात को खत्म किया जाए। इतना निवेदन करके मैं बैठता हू। धन्यवाद।

THE DEPUTY CHAIRMAN Shri Cho Ramswamy. I hope you are not going to speak for long because it is too late. ...*(Interruptions)*...

SHRI CHO S. RAMASWAMY (Nominated) Madam, Deputy Chairman, I thank you for giving me this opportunity. I am not going to take much time Mr. Kapil Sibal was brilliant in his argument He almost won his case But one point which he emphasised provides sufficient and acceptable grounds for the dropping of the conspiracy charge, if at all there has been a dropping of the charge by the CBI. Mr. Sibal said that under the Evidence Act, the deposition of the Kar Sevaks would have been enough proof of the participation of Mr. L.K. Advani in the conspiracy In my opinion, there cannot be any flimsier evidence than the evidence of the so called Kar Sevaks. Anyone so inclined can gather a bunch of persons, who will be prepared to identify each other as Kar Sevaks, who participated in the demolition on that day After all, there were lakhs of persons assembled at the fateful spot and on that eventful day. Who is to know whether the persons who were prepared to depose on the existence of a conspiracy were really Kar Sevaks or not. They may be 'case sevaks' and not Kar Sevaks If the CBI chose not to rely on such flimsy evidence and instead dropped the charge, it is a wise decision. The thrust of this debate seems to be to demand that the Government should instruct the CBI to include the conspiracy charge Well, if there had already been one interference by the CBI and you are agitated about it, why do you demand another interference from the Government? Leave it to the CBI to decide. Finally, is this debate going to help the basic need that of communal amity? Is it right to seek revenge? What you require is not revenge but conciliation Let us remember that when the Babri Masjid was demolished, it was not the Prime Minister of the day who felt remorse and resigned It was not the Home Minister of the day who did so. It was the then Leader of the Opposition Shri Atal Bihari Vajpayee who resigned out of sheer sadness. I still remember the telecast of that horrible event. *(Interruptions)*

AN HON. MEMBER You do not know *(Interruptions)* He did not resign. ...*(Interruptions)*..

THE DEPUTY CHAIRMAN: Let him speak...*(Interruptions)*...अगर फैक्ट्स होगे तो बाद मे चैक कर लीजिएगा।...(व्यवधान)... बोलिए। I will check the record. ...*(Interruptions)*..

SHRI CHO S RAMASWAMY: I remember the telecast of that horrible event The anguish-ridden face of Shri L.K. Advani still appears before my eyes. It was the face of a man who was shocked, who was shattered and not the face of man who had carried out a conspiracy to achieve the demolition And to allow a few persons calling themselves Kar Sevaks to depose that there was a conspiracy and that he was a part of it, would not be an act of a responsible prosecution but of an vengeful persecution If the case had been withdrawn immediately after this Government came to power, the media would have cried hoarse, the Parliament would have been paralysed for a few days. But the ruling party would not have lost a single vote because of that because the people are not demanding revenge They are anxious to see an amicable settlement and a peaceful solution The debates of this sort would only help to generate animosity and help in delaying, if not destroying, the chances of a peaceful solution to this problem. So, let this be the last of such debates. Thank you.

SHRI V.V. RAGHAVAN (Kerala) Madam, I thank you for giving me this opportunity. Madam, we are concerned about the smooth functioning of our parliamentary democratic system For that a close scrutiny of the Executive by this House is quite essential. In this connection, the recent developments in the Babri Masjid demolition case raise some grave concerns about the interference in the CBI's functioning. The C.B.I. is the premier investigating agency of the country. It is a Constitutional body. It comes under the direct control of the hon Prime Minister So, it should function freely If the functioning of the C B I. is influenced by the external pressures, then our Parliamentary democracy will suffer Madam, we have very eminent lawyers of the country as Members of this House. I was closely hearing their arguments. Apart from hearing arguments from both the sides, it is quite obvious, in this present set up the C.B.I cannot function freely How can the C.B I. prosecute the Deputy Prime Minister? The prosecutor is the Central Government and the accused is the hon. Deputy

Prime Minister. How can the C.B.I. function impartially? How can it discharge its duties in this context? It is a very logical question. So, every propriety demands -- I appeal to the hon. friends of the ruling benches -- that when Shri Advani is an accused and the prosecutor is the C.B.I., he should have stepped down. Otherwise, how can they proceed to prosecute the hon. Deputy Prime Minister? They are compelled to proceed. But, the circumstances compel them to proceed in a direction as the recent developments show. So, even now, when this crucial issue is before the public and debated hotly, it is proper for the hon. Deputy Prime Minister, who is also the Home Minister of the country, to step down. Madam, the hon. Deputy Prime Minister, also, sometimes, performs the functions of the hon. Prime Minister and the C.B.I. directly comes under the control of the hon. Prime Minister! So, it is now proper for the hon. Deputy Prime Minister to step down and set an example. So many arguments have been put forward arguing that the Babri Masjid demolition was necessary. Madam, whenever my young friend, Mr. Sanjay Nirupam gets an opportunity to speak, he raises this issue. What has he said just now? He wanted to ignore the court. He wants to ignore the verdict of the court. He wants Parliament to enact a fresh law to build Ram temple.

SHRI EKANATH K. THAKUR: Yes, we repeat it. We want a law to build Ram temple

SHRI V.V. RAGHAVAN: Yes. You have every right to repeat it. I remind you Shiv Sena Sainiks, you have now realised the force of Bhim Sena. Now, you are trying for Shiv Shakti and Bhim Shakti together after thousands of years! Are you serving the Hindu community? Are you, after all, in the Hindu community? Do you know what harm you have done by bringing the Chaturvarna divide in the Hindu community? Hence, castes of the country now. You have divided them under your ideology of Chaturvarna. You have no right to speak about Hindus. There is a Hindu community and where were you? Quite recently, you have realised that danger and now you are propagating Shiv Shakti and Bhim Shakti. So, forget it. There may be a settlement to build a *mandir*. But that settlement can only be by the verdict of the court. It is a constitutional body. When the court is dealing with it, and the verdict is awaited what right has the House got to enact a law? How can the BJP pass a resolution on this subject? When they demand for a law, while the court is dealing with it, they are going out of the constitutional framework.

SHRI KULDIP NAYYAR (Nominated). Madam Deputy Chairman, I am very thankful to you that you have given me this opportunity. Here, many good words have been said about me. Why did I really go to the court? Or, why did I sign that petition? It was meant to uphold the dignity of the office of Home Minister I did not want the country's Home Minister to be humiliated on the grounds of technialities. ...*(Interruptions)*...

उपसभापति : कुलदीप नैयर जी एक मिनट। हमारे वाईस चेयरमैन के नए पैनल के जो मैम्बर हैं, डा. ए.के.पटेल, उनको मैं यहां बैठाना चाहती हू।

श्री कुलदीप नैयर : मैडम, आप मेरे बोलने के बाद चले जाइएगा।

उपसभापति : नहीं, नहीं। उनको बैठने दीजिए, वे बहुत अच्छे हैं। मैं आपको सुनूगी बाद मे। आइए, आइए.... Just a minute Patel Sahib. अभी पांच बजने में दो-तीन मिनट हैं और I want to take the sense of the House If the House so agrees we will complete the debate. ...*(Interruptions)* .We have a lot of business.

SOME HON. MEMBERS: Yes, Madam, we can complete it today.

THE DEPUTY CHAIRMAN: So, we can continue. Okay. अब पटेल साहब को परेशान मत कीजिएगा।

[THE VICE-CHAIRMAN (DR. A K PATEL) in the Chair]

THE VICE-CHAIRMAN (DR A K. PATEL). Kuldip Nayyarji, please continue.

SHRI KULDIP NAYYAR: Sir, I was saying that the case had been dropped on technicalities So, I thought the Home Minister should not be humiliated on the grounds of technicalities That was the reason why I filed the petition But, on the merits of it, I think, this petition is, in a way, still pending before the Supreme Court. The High Court thought that the permission was not taken, while the fact is that in one of the judgements, it was said that all cases, relating to the Babri Masjid, would be referred to a Special Court. So, that is still pending. But I say that the Attorney General should have been consulted somewhere. Take for example, this 'conspiracy' thing has been dropped. Hon. Law Minister has just stepped in I would like to find out who dropped it. Is it the Law Minister? Did he consult anybody? Did the CBI consult anybody? Why was the Attorney

5.00 P.M.

General not consulted at any stage? After all, he is the person who is above the Government in a way. But, I really come to the main point, that is, the CBI Over the years, I have seen that the CBI has ceased to be independent. It has really become a rubber stamp of the Government in power. During the Emergency, it was misused. And, during their rule also it is being misused There are no two opinions about it. Now, what should we do? *(Interruptions)* .What Mr Sibal said was that there should be a Public Prosecutor. It was done in the case of President Clinton during the period of treason. But that is too expensive India can't afford that. I think, we are also going to have Lokpal. There is going to be autonomous Vigilance Commission. My feeling is that we should have something else than CBI. I am not saying that to have all the way a new independent agency. If it could be possible under the Lokpal, it should be created. But it should not be made too expensive. But, at least, what we can do immediately is that the National Human Rights Commission has a set of prosecutors. It has an investigating agency Cannot those investigators ...*(Interruptions)* I was saying that the National Human Rights Commission have a set of investigators. They have a set of prosecutors; there are retired people and others Is it possible to set up some kind of a machinery like that, so that suddenly when the CBI decides to drop a case, or, suddenly decides to revise a petition -- something could be done, and so that this could be helpful in the future?

The last point I am trying to make here is this. Every time we discuss something serious, accusations, counter-accusations and the Babri Masjid are brought in -- whatever happened was bad enough -- we have to find a way out of this. And my suggestion, through the Chair, is that let the House agree, or, let the country agree, 'Look here, there will be no demolition of any religious place now ' Whatever was there in August, 1947 will be accepted, and in lieu of that, as a gesture, the Muslims can be persuaded to offer this Babri Masjid site, provided there will be a guarantee that there will be no Mathura, provided there will be a guarantee that there will be no Varanasi. So, can we really start a chapter of conciliation?

THE VICE CHAIRMAN (DR. A.K. PATEL). Please conclude now

SHRI KULDIP NAYYAR If that is possible, maybe, we shall start a new chapter. But what I wanted to emphasise again is that the CBI is already very much devalued. So, we shall have to think of some way whereby an independent investigating agency is created. It would be very

good if under the Lok Pal or under this autonomous Vigilance Commission we could create one. Otherwise, the other way which I have suggested is on the pattern of like the National Human Rights Commission. Thank you

श्री एस0एस0 अहलुवालिया : उपसभाध्यक्ष महोदय, बाबरी मस्जिद गिराने के मामले मे केन्द्रीय जांच ब्यूरो की भूमिका के बारे में चर्चा हमारे माननीय सदस्य हसराज भारद्वाज जी ने शुरू की थी। सारे दौर को सुनते हुए मुझे कुछ ऐसा महसूस हो रहा था कि हम लोग इस समस्या का समाधान चाहते है या इस समस्या को और जटिल करना चाहते हैं। सोचते-सोचते मेरे मन मे एक भाव जागा। वैसे तो मैं लॉ का छात्र रहा, वकालत पास भी की परन्तु दुर्भाग्यवश अपने और विद्वान मित्रो की तरह सुप्रीम कोर्ट या किसी और कचहरी मे प्रैक्टिस नहीं की। लेकिन जितना ज्ञान हासिल किया, उसके बारे में इतना जाना कि न्याय के प्रति आस्था वैसी ही होनी चाहिए जैसे आदमी को धर्म के प्रति हो। न्याय एक धर्म है और यही कारण है कि एक न्यायाधीश को न्याय मूर्ति के रूप मे माना जाता है। जब एक प्रतिनिधि, जनता का प्रतिनिधित्व करते हुए सदन में पहुंचता है, इस प्रतिनिधि सभा में पहुचता है तो उसे अपनी पूरी निष्ठा, पूरी ईमानदारी से अपना कर्त्तव्य निभाना चाहिए पर दुर्भाग्यवश इस प्रतिनिधि सभा के माध्यम से जितनी सस्थाएं बनीं, चर्चा के माध्यम से आज हम इन सस्थाओ को तोड़ रहे है। हमारे पास तोड़ने का अधिकार है। हमने अगर किसी संस्था को कोई अधिकार दिए है तो उन अधिकारो को वापस लेने के अधिकार भी इस संस्था को हैं। हम उस सस्था के अधिकार को वापस नहीं ले रहे हैं पर उसे बदनाम कर रहे हैं। उसे बदनाम करके, उसके प्रति जो आस्था है, उस आस्था मे कमी कर रहे है। महोदय, यह कमी कैसे हो रही है? सारे भारत मे सिर्फ यह बाबरी मस्जिद का मसला ही नहीं है। बाबरी मस्जिद का मसला पहले यू पी. की सी आई डी को दिया गया। यू पी के सी.आई.डी. डिपार्टमेंट ने अपनी चार्जशीट पेश कर दी। उस पर काग्नीजेस ले लिया गया पर उस वक्त केंद्रीय सरकार और वहा पर जो राष्ट्रपति राज था, उन दोनो ने यह निर्णय लिया कि नहीं, यह सी बी आई को दिया जाए। सी बी आई के माध्यम से जांच हो अर्थात् हमने सी.बी आई पर पूर्ण आस्था प्रकट की कि सी.बी.आई सही काम कर सकती है। आस्था हम उसी पर प्रकट कर सकते हैं। घोड़ा ऐसा हो, सवारी जैसी भी हो पर घोड़े की चाल न बदल सके। घोड़ा वह क्या जो सवारी के कारण अपनी चाल बदल दे। इस सदन मे जब हम किसी भी विधेयक को पास करते हैं, उस पर चर्चा करके, उसका मीन-मेख निकालकर, हर पहलू पर चर्चा करते हुए कानून बनाते हैं।

डा0 रमेन्द्र कुमार यादव "रवि" (बिहार) लगाम सवारी के हाथ मे होती है, जैसे चाहे मोड़ सकता है।

श्री एस0एस0 अहलुवालिया : मैं वही कहता हूं कि लगाम और सवार को देखकर नाक मे नथनी डालने दीजिएगा तब न। उसके नाक में आपने नथ डाल दी। विधेयक किसने पास किया? इसी सदन ने। यह तो वही बात है कि हम खुद ही ऊपर थूक रहे हैं और जब थूक अपने ऊपर पड़ता है तो कहते हैं कि लो, हमारे ऊपर थूक रहे हैं। हम एक संस्था को बदनाम कर रहे हैं। यहां पर सी.बी.आई का कोई प्रतिनिधि आकर अपनी बात नहीं कर सकता। सी.बी.आई. के

केस या विचारो मे सुप्रीम कोर्ट कोई भी फैसला करती है। आज यहां इतने बड़े-बड़े विद्वान, अधिवक्ता हैं, जो यहां के माननीय सदस्य भी हैं, इन्होंने सी.बी.आई. के बारे मे कहा है। सुप्रीम कोर्ट जब कोई फैसला करती है और कहती है कि इसकी जांच सी.बी.आई. से कराई जाए तब आप खड़े होकर कह दीजिए कि नहीं, सी बी.आई से नहीं कराई जाए, एफ.बी.आई. से कराई जाए। क्या कह सकते हैं? यह हमारे देश की सबसे बड़ी संस्था है और इसे यह सस्था कर रही है।

श्री नीलोत्पल बसु : वही तो आप कर रहे हैं। एफ.बी.आई का दफ्तर खोल लिया।

श्री एस0एस0 अहलुवालिया : किसका दफ्तर खुला, क्यो खुला, यह आप मुझसे ज्यादा जानते हैं क्योकि जब आप अपनी तकनीकी को खुद ही रोकेंगे, उसे खुद ही बदनाम करने की कोशिश करेगे तो नैचुरली आपको दूसरे से टैक्नोलॉजी लेनी पड़ेगी। लालू जी बोल रहे थे। लालू जी अच्छे वक्ता हैं। मैं तो उन्हें कहता हू कि मर्कुरियन हैं। उन पर बुद्ध की पूरी कृपा है। नालंदा विश्वविद्यालय उसी बिहार मे था। सारी दुनिया से लोग पढ़ने आते थे। आज उसी बिहार के लोग सारी दुनिया मे जाते हैं, वहा नहीं पढ़ते हैं। आज हमारी जांचकर्त्ता सी.बी.आई., हमारी आर्मी, हमारी डिटेक्टिव एजेसी का नाम सारे विश्व मे माना जाता है किंतु हम कहते हैं कि नहीं, यहां पर खिलवाड़ हो सकता है, हम परिवर्तन कर सकते हैं। इस्तीफे की मांग कर रहे थे। आज बारह-तेरह साल बाद हम इस्तीफे की मांग कर रहे हैं कि ऐसा हुआ है, 120 B क्यों नहीं लगा? यही सदन है। मैं उस वक्त भी सत्ता पक्ष मे था। मैं जानता हूं कि मैंने इस सदन मे क्या-क्या कहा था। और हमारे कहने पर ही सत्ता पक्ष के जो नेता थे एस0बी0 चव्हाण जी, जिन्होंने वचनबद्ध होकर कहा था कि 30 मिनट मे फोर्स पहुंच जाएगी, पलटन पहुंच जाएगी और मस्जिद नहीं गिरेगी, उसके बावजूद मस्जिद गिरी और पलटन नहीं पहुंची। पलटन तब तक नहीं पहुंची जब तक वहा मंदिर नहीं बन गया। तो उस वक्त किसी प्रधानमंत्री ने, किसी गृह मंत्री ने, किसी रक्षा मंत्री ने या किसी अन्य मंत्री ने इस्तीफा क्यों नहीं दिया? जिस वक्त कत्ल हुआ उस वक्त तो मर्डर का चॉर्ज किसी पर नहीं, लेकिन उसके 12 साल बाद प्रधानमंत्री इस्तीफा दे, उप प्रधानमत्री इस्तीफा दे, तो क्यो और किस बात के लिए इस्तीफा दे? फरवरी, 1986 को जब उस मस्जिद का ताला खुला था तब आवाज क्यों नहीं उठी? 1989 को जब शिलान्यास कराया गया, तब आवाज क्यो नहीं उठी? तब भी तो यही था कि बाबरी मस्जिद का मसला समझौते से, कचहरी के आदेश से, इन सारी चीजो से हल होना चाहिए। उसके बावजूद एक जगह पर शिलान्यास, एक इंटरनेशनल स्वामी को ले जाकर यहां के मंत्री गए और चोगा पहन-पहन कर वहां शिलान्यास कराया गया, तब क्यों नहीं आवाज उठी थी? तब लोगों की अन्तरात्मा कहां थी?

श्री नीलोत्पल बसु : यह आप ही बोल रहे है।

श्री एस0एस0 अहलुवालिया : हां, मैं ही बोल रहा हूं। ...**(व्यवधान)**... मैं उस वक्त भी बोलता था और अब भी बोल रहा हूं।

श्री नीलोत्पल बसु : तब तो आप सरकार में थे।

श्री एस0एस0 अहलुवालिया : था, लेकिन सरकार मे मैं इतना कर्णधार नहीं था। ...**(व्यवधान)**... उस वक्त एक पगड़ीधारी मंत्री ही गए थे, परन्तु मैं नहीं था। ...**(व्यवधान)**...

एक माननीय सदस्य : बूटा सिंह जी गए थे। ...**(व्यवधान)**...

श्री हंसराज भारद्वाज . वही आपको पार्लियामेट मे लाए थे।

श्री एस0एस0 अहलुवालिया · मेरे को लाने वाले कौन हैं, यह तो आप जानते हो, पडित जी।

श्री हंसराज भारद्वाज . हम एक ही प्लेन मे आए थे। ...**(व्यवधान)**... आप, मैं और बूटा सिंह जी, एक ही प्लेन मे आए थे।

श्री एस0एस0 अहलुवालिया : एक ही प्लेन मे आए थे।

(श्री सभापति पीठासीन हुए)

इसलिए इन बातो पर, इन षडयत्रो की जो बात की जा रही है, बार-बार यह दोषारोपण करने की जो कोशिश की जा रही है, मै कोई मैरिट पर नहीं जा रहा हू, क्योकि मैं इस चीज के विरुद्ध हू। ट्रायल जो करना है, कोर्ट मे हो। कोर्ट फैसला करे और अभियोगकर्ता ने जो केस बना कर दिया है, वहा फैसला होगा और उसके बाद जनता फैसला करेगी। उसका फैसला ऐसे ही नहीं कि सीबीआई को डिसक्रेडिट करके हमे कुछ क्रेडिट मिलता हो। संस्था को हम बनाते हैं। हम उसको तोड़ सकते हैं। किंतु सस्था की छवि बिगाड़ने की कोशिश न करे। हम इस तरह के भाषणो से, इस तरह की चर्चाओ से, उस संस्था की छवि को बिगाड़ते हैं। जब हमे अदेशा हो जाता है कि इस केस मे फैसला होने वाला है, उसमे ये-ये लोग आजाद होने वाले हैं, तो पहले से ही हल्ला कर दिया जाता है कि नहीं जी, गड़बड़ हो गई, गड़बड़ हो गई और ऐसे ही आज यह ममला सा बन गया है। आज काग्रेस के पास या विपक्ष के पास कोई मुद्दा नहीं रह गया है। पिछली बार बीपीसीएल का, एचपीसीएल का मुद्दा था। उसके लिए एक हफ्ता पार्लियामेट नहीं चल पाई। इस बार जब मारुति का बढ़िया डिस्इन्वेस्टमेट हो गया तो वह मुद्दा सामने नहीं है। तो आज कौन सा मुद्दा उठाया है, 120-बी का मुद्दा। 120-बी अभी नहीं, उस वक्त के हुक्मरानों पर लगनी चाहिए थी कि सदन मे वायदा देने के बाद भी पलटन को वहां बैठाए रखा। खिला-पिला कर बैठाए रखा, चुस्त-दुरुस्त रखा और जाने नहीं दिया। हमारे जनेश्वर मिश्र जी कह रहे थे कि पलटन बनाएंगे, पर वह पलटन वहां धरी की धरी रह गई। परन्तु उस वक्त मांग नहीं की कि कोई मत्री इस्तीफा दे। मैं चश्मदीद गवाह हूं। मैं बोलना नहीं चाहता कि किस-किस मत्री के पास मै उस वक्त गया था कि कम से कम इस्तीफा तो दे दो। थोड़ी तो शर्म करो, पर लोगो ने कहने से इकार किया या करने से इकार किया था। महोदय, चिट्ठी तो लोग बहुत बढ़िया लिख लेते है।

महोदय, सारे दिन की बहस के बाद आखिर क्या निकला ? निकला यही कि हम ने सी0बी0आई0 जो कि देश की एक प्राइम संस्था है, उस पर एक प्रश्न चिह्न लगा रहे हैं । कल जब कोई भी इलाके की सरकारो से, राज्य सरकारो से त्रस्त होकर सी0बी0आई0 जांच की मांग करेगा तो वह किस मुंह से करेगा?

महोदय, आप ने मुझे बोलने का मौका दिया, इस के लिए आपका धन्यवाद करता हूं।

श्री सभापति : माननीय सदस्य, अब सवा 5 बज गए हैं। मैं यह डिबेट खत्म करना चाहता हूं, इसलिए जो बाते आ गई हैं, उन को रिपीट न करें। अगर नई बात कहनी है तो कह दें।

SHRI H. K. JAVARE GOWDA (Karnataka) : Thank you, Mr. Chairman Sir Sir, in this debate, I heard both sides. The point is, the High Court has said 'I have not informed the High Court while filing the charge sheet. The case has been dropped and it should be filed afresh.' But what has the Uttar Pradesh Government done? It has not yet filed a charge sheet. After a long time, a charge sheet has been filed before the court deleting the charge under Section 120B, IPC. My submission to the hon. Chairman is that there was no fresh investigation by the CBI. The only job that the CBI did was deleting 120B so as to save the persons involved. There was no fresh investigation Under these circumstances, the core issue today is whether the CBI in this country is working independently without the interference of the Executive. If this Government had not interfered, then the CBI would have filed alleging conspiracy as it is. But it has not done so. I submit to you, Sir, in this country, CBI is not working on its wisdom. Time and again, the CBI is working on biased lines, under duress. Further, I would like to know from the hon. Minister and the Government whether this Government is prepared to make the CBI an independent, autonomous body like the Comptroller and Auditor General of India, who work, directly under the President. Otherwise, persons like the Deputy Prime Minister and other Ministers can interfere and can easily delete their names from the charge sheet. Now, my point is that I have seen that in the Saint Kitts case also CBI was misused and a charge sheet was filed. In Tamil Nadu also, during one regime, when the party was not in power, one person was implicated by the CBI. Only when that Government joined the alliance, that quarrel stopped That is how things are. But regarding the demolition of the Babri Masjid, one fine morning they may say that before 6th December, 1992, Babri Masjid did not exist at all. A day will come when they are going to say that Likewise, they are saying that there was no conspiracy done by

the three Ministers, three prominent leaders of the BJP, who instigated the *karsevaks*, who were part and parcel of the *karsevaks* and the *rath yatra* The irony is that, from this side, they have also contributed towards the demolition of Babri Masjid They are 50 per cent on this side, and 50 per cent on the other side The persons who really did something were Shri Laloo Prasad Yadav, Shri Mulayam Singh Yadav, the West Bengal Government and the secular parties who opposed the *rath yatra*. This is the point. Under these circumstances, I come to the point You see the position of the CBI in this country. Mr. Chairman, I would like to draw your kind attention to the fact that Rs.10,000 crores fake stamps are being printed and circulated in this country involving six States. Karimlala is the kingpin. But neither the State Governments nor the Central Government is ready to hand over the investigation to the CBI. Why? It is so because of the biased attitude of persons who are in power. Under these circumstances, I submit to you, Sir, that what has been deleted -- because earlier it was there -- it is to be added Then, there will not be any controversy. If evidence comes, then he will be convicted. If it is concluded in the course of trial that there is no evidence, there cannot be any other thing. One point that was discussed is that the matter is sub judice. I am not going to agree with it because before filing the chargesheet in the court, the investigating agency has the power to investigate and file the chargesheet. Here in this case, till the filing of the challan before the High Court, section 120B remained. Only on technicality it was dropped and it has not been cured. Instead of curing it, they deleted or dropped the charges. Under these circumstances, this Government is interfering with the administration of the CBI. As long as the CBI is not going to make an independent autonomous body in this country, definitely the Government of the day will interfere and will not allow the CBI to do its work properly. I submit that this Government should come forward to make the CBI an independent autonomous body. Thank you.

MR. CHAIRMAN: Shri N K. Premachandran. Please keep in mind the time.

SHRI N.K. PREMACHANDRAN (Kerala): Thank you for giving me this opportunity and allowing me to participate in this debate on the conduct of the CBI in the demolition of Babri Masjid. Sir, first of all, I would like to take this opportunity to appreciate the wisdom of your goodself in allowing this discussion as a Short Duration Discussion regarding the

conduct of investigation by the CBI, the premier investigating agency of our country Sir, we are only confined to the handling of the investigation of the case Whatever may be the other aspects of the demolition of the disputed structure of Babri Masjid, we are only concerned with the investigating agency's activities in filing the chargesheet and in protracting and delaying the matter throughout all these ten years or this one decade. The construction of a temple on the Ramajanambhoomi and all other related matters have been the election planks of the BJP and its allies. Primarily, they are always taking this issue as an election propaganda. Here also, when I heard Shri Sanjay Nirupam, the learned Member, and other Members, it appeared that they are concerned about the construction of the temple. They are not concerned about the rule of law of this country. Sir, in the biggest democracy in the world like our country if there is no rule of law, if we do not abide by the verdict of the court, if we do not abide by the rule of law, then what would be the future of this country? Please bear this thing in mind. Otherwise, if each and every community, whether it is majority or minority, is taking a position that 'whatever be the decision of the Supreme Court or adjudication by a court of law, it is not binding on us', if such a position is taken by a constituent party in the Government, it is very dangerous to the root of the Indian democracy. That is the situation which we are now faced with in this country Now the matter to be considered very precisely is: Has the CBI, the primary investigating agency, done its investigation in good faith without any bias? Sir, according to us, the CBI is being totally misused by the Government, especially the office which is held by the eminent personalities in the political scene of this country Even the Prime Minister is also responsible If the CBI is being misused, definitely, the highest office of the country, the Prime Minister's Office, is also responsible for this. It has been well established by Mr Kapil Sibal in his speech that it is being misused. I can cite so many reasons for this, but due to lack of time, I am not going into the details. Here, while going through the records, I found the CBI's act is very clear It is very pertinent that on 2nd February, 2001, the Allahabad High Court ordered that there was a defect; and what was the defect? In the constitution of a special court, no consultation was done by the State Government before issuing the notification. There was only a technical defect and the hon. High Court of Allahabad has very specifically said that the Government could very easily cure the defect by issuing a fresh notification after consulting the High Court That was the verdict of the High Court.

MR. CHAIRMAN. This matter has already been discussed. So many Members have spoken on this

SHRI N.K. PREMACHANDRAN: Sir, the collusion is very clear Nothing has been done by the State Government and the CBI has not gone for a Special Leave Petition before the Supreme It is very specific and evident that the CBI, colluding with the State Government authorities, has been dictated by the highest office of this country. The Prime Minister's Office in this country has made all these things in such a way to help the accused in escaping And, that is why, after intervening, after the filing of an SLP by the learned Member of this House, Shri Kuldip Nayyar, and after that, this order has come and only then, the new charge-sheet has been filed. Sir, I am concluding with two points From the CBI report, it is very clear that lakhs of *kar sevaks* have conspired in the demolition of Babri Masjid or the disputed structure That means, if such a reference is there by the CBI on the basis of the investigation, which has just come out in evidence, lakhs of *kar sevaks* have conspired for the demolition of Babri Masjid, and then why, in the charge-sheet, section 120(b) has not been incorporated. This means that these eminent personalities, the Deputy Prime Minister, Mr. L.K. Advani, the Human Resource Development Minister, Dr. Murli Manohar Joshi, and all others are not involved in the conspiracy. That is a very specific explanation which is being given to the court. That is why, I am saying that they are also kar sevaks, and their speeches were instigative. I am not going into the merits of the case So, this is a doubt, which is to be clarified by the CBI As Mr. Nilotpal Basu has said, the CBI is not unanswerable, it is accountable to this Parliament. Why is it so? And, the Supreme Court Judgement has also allowed the CBI to take up the case no: 198/92 to the Rai Bareilly court. The Court has never restrained the CBI from filing the consolidated charge-sheet. So, CBI has not done it and the supplementary charge-sheet has been filed before the court What prevents the CBI from filing the original charge-sheet in which section 120(b) was also there? That consolidated charge-sheet has not been filed. The Supreme Court, or any other court, has never said that the consolidated composite charge-sheet shall not be filed. The case no:198/92 has been transferred to the Rai Bareilly Court. That does not mean that a charge-sheet, which is submitted to a court of law previously, is not in existence now So, it is a very deliberate attempt that section 120(b) has been dropped. It is a criminal conspiracy that the major offence, out of the six offences, is omitted or dropped with political motives That is

why, we are alleging the CBI for acting according to the diktats of this Government so as to achieve its political gains. Sir, we are all having great respect for the Deputy Prime Minister. He is a sort of model of Indian democratic politics. During the Jain Hawala case, when a wild allegation was levelled against him, he resigned from the post of Member of Parliament and said that unless and until he was proved innocent, he would neither contest elections, nor will hold an office of profit Now also, Sir, there are five charges against him. Even in the additional chargesheet, five major charges under the Indian Penal Code are levelled. He is the prosecutor, he is part and parcel of the Government and he is an accused. How an independent inquiry or trial will be possible in a court of law? So, Sir, my humble submission is that unless it is proved that he is innocent, he may please vacate the post of Deputy Prime Minister. Also, the Prime Minister owing the moral responsibility, has no right to instigate or misuse the CBI office.

With these words, I conclude.

SHRI SHANKAR ROY CHOWDHURY (West Bengal): Mr. Chairman, Sir, it has been a fascinating debate But the various arguments that have come up in the case proves, to non legal people like us, that there is enough darkness, dust, dirt and grind on the Babri Masjid case to warrant us to be strongly suspicious of the Government. But, then, to be fair to the Government, while we have raised in this House the specific issue of the Babri Masjid case, we are also aware that every single party represented here, whether in the Government or in the Opposition has its own record of manipulation of Government agencies

[THE VICE-CHAIRMAN (DR. A.K PATEL) in the Chair]

Whenever these parties have been in power, in position of authority, whether at the Centre or in the States, they have utilised or misutilised the agencies at their disposal. So, the larger question is not really about the specific section of the law, in this case it is 120(b), the charge of criminal conspiracy, which has or has not been applied in the chargesheet against the high authorities concerned. Has it been due to pressure and manipulation by the Central Government on the CBI? It is entirely possible that it is so. But, if it is so, it is neither really any different from the actions, reactions of the earlier Governments -- whether in the

St Kitts case, the Nagarwala case, the Jeep scandal case, the Emergency -- nor is it any different from the actions of the State Governments at various times and places. I will just mention a couple of cases and these are the Godhra case, the Best Bakery case, Madhumita Sharma's case and Anand Margi's case. This list goes on and on.

(MR. CHAIRMAN in the Chair)

However, Sir, the hon. Law Minister has defended his case very ably. He does not need such a certificate from me But, as a non-legal person, I have extremely enjoyed the debate. We also realised that we have had the privilege to witness a quality of legal discussion, which is not generally available to the public But, I would like to mention that he has gone to great lengths to emphasise and justify, as also his colleague hon. Ravi Shankar Prasad, that the central figure in approving or disapproving or accepting or denying the quantity and quality of offences under the chargesheet is neither the CBI nor any other agency, but the Magistrate or the Sessions Judge who is actually trying the case. Here, in view of the general cynicism that surrounds the functioning of all the Governments, this is legally correct. But, surely, I would feel that in the actualities of the political environment, the quality of governance, where high Central Government figures are involved, where allegations are being made about the manipulation of the highest Government agencies, is it possible that a member of the judiciary will remain immune to the tremendous pressures that are being generated upon him? Various valuable suggestions have been made like Independent Prosecution Agency, Lok Pal But, I would again, perhaps, reflect the sense of cynicism prevailing in the country. Under the circumstances prevailing in this country, in this environment, no body is independent, nobody is unsusceptible to pressure. So, what do we do?

In this particular case, which is part of the ongoing series of the cases that I have mentioned, we would like the Government to explain as to why this specific issue of 120(b) has been dropped, deleted or excluded in this case. We would like the Government to ensure that the Babri Masjid case, which is the case in front of us now, is handled in a fair and transparent manner to the satisfaction of the Parliament and to the people of this country And, may I dare make a suggestion in the prevailing atmosphere and in the background of other such cases, would it be

possible for the high dignitaries like the Deputy Prime Minister and the Minister of Human Resources Development to please step aside and set an example in the case? Thank you.

MR. CHAIRMAN: Shri R.K. Anand. You are the last speaker. Only five minutes are given to you

SHRI R.K. ANAND (Jharkhand) : Sir, please give me only ten minutes Just give me ten minutes.

MR. CHAIRMAN: All right, you are given seven minutes.

SHRI R K ANAND : Mr. Chairman, Sir, we are very grateful to you for allowing us to speak on this important topic The issue is important not only in the context of Ayodhya, but in regard to a number of cases, specially when the allegations have been made against the Central Government and the State Government that they are being manipulated and being used against the Opposition And, there are allegations that there is lack of registration of cases and scuttling of the investigation. Now, in this case the incident took place on 6th of December 92, when the BJP Government was in power The FIR was recorded at 5 15 and 5 25 p.m. Now, obviously the FIR was recorded in a cryptic manner, all the sections were not added Legally speaking, it is not necessary that all the sections must be added in the FIR. If the facts constitute a particular offence, the investigation can go on and charges can be filed under other sections. After the FIRs were recorded, the CBI took over the investigation. CBI did the investigation. They were satisfied. That, not only 120 (B) of IPC was made out, there were number of other sections which have not been pointed out herein and which are very, very serious. In the FIR, only four sections were mentioned there, Sections 153 (A), 153 (B), 147, 149 and 505. When the investigation was conducted, section 120 (B) was added, Sections 295, 295 (A), 332, 338, 395 and 201, which is destroying of the evidence, were also added. Then, section 114 of the IPC was added Now, when the chargesheet was filed on 5th October, 1993 before the court, the CBI was satisfied after investigation, that they had collected evidence, that these offences were made out in these cases. This is the satisfaction of the CBI, after the investigation done by them, after recording the evidence. Then they go to the court and filed the charge-sheet into the court of law on 5th October, 1993. Now, when you go before the court, the CBI argues in the

absence of the accused. They satisfied the court that these offences were made out Now, on 11th October, 1993, when the arguments took place, the learned judge was satisfied that all these offences were made out against all the accused, including Mr Advani Now, all these offences, including 120 (B), and the most serious offence under Section 395 was also made out against him Now, once the CBI is satisfied, second a seal is put by the court that *prima facie*, a case was made out against the accused. Then the third stage comes, when the accused is given a notice, he comes before the court and he is given a chance to argue Both are heard and the charge was framed on 9th of September, 1997 I think, there are four stages, registration of FIR, offence not mentioned, that does not mean that you can't try the cases under other sections Second thing is that investigation has been done, the CBI is satisfied that the case is made out, not under Section 120 (B) only, but rest of the very, very severe offences where the life imprisonment is to be imposed The offence under Section 395 has a life imprisonment Now, we find that this section is also omitted there also. Thereafter, when the court has put a seal of cognisance and after hearing both the sides and charges have been framed, when the matter went to the High Court, the High Court has not set aside the charge The charge against rest of the 40 people stands. The case of conspiracy against other people stands and all sections are therein Only in the case of nine people on the technical ground, they say you can't try this case in a particular judge. On the merits of the case, they have said that the case is made out. Can the CBI turn around and say that these sections are not made out? When you file a chargesheet before the court -- I heard Mr. Jaitley yesterday saying that -- it is for the court to decide what section to quote; he is right But the question is, if you do not give the facts in the chargesheet regarding those sections, if you do not argue those facts before the court, then how can the court come to know? The court was not present at the site What I find from the entire chargesheet is that there is no evidence at all There are no witnesses -- which have been quoted there in the other case -- that have been quoted herein. There were 700 witnesses therein Now, there you kindly see, how you scuttle the investigation. You had a lawyer, Mr Choubey appearing therein, who was already engaged therein. You want to have a closed kind of trial. You engage your own lawyer. The earlier lawyer was replaced and you have your own lawyer, you have your own accused and the trial is being conducted in a closed manner so that the public may not come to know. If these charges were not being brought to us, we would not have come to

know as to what facts have been given therein. What you find is that the lack of evidence is the most important thing in this case. You are not bringing it to the notice of the court that this is the evidence against them How can the judge frame the charge subsequently? The normal procedure is that the same chargesheet which has been filed against 49 people from which the nine people have been separated, has to be withdrawn and the same chargesheet has to be filed in the court as it is, taking the whole 700 witnesses, then leave it on the court to decide as to what charges are to be framed But here it is being done deliberately You have made a charge only of one page I find that out of seven pages, only one-page allegation has been made and that only in regard to the demolition. That is all.

MR CHAIRMAN: You have made your point

श्री सभापति : श्री नीतीश कुमार जी ने रेलवे ऐक्सीडेंट्स के बारे मे लोक सभा मे आज एक स्टेटमेंट दिया है।

रेल मंत्री (श्री नीतीश कुमार) : महोदय, आपकी इजाजत हो तो मैं सदन के पटल पर उसकी प्रति रख देता हूं।

श्री नीलोत्पल बसु : महोदय, यह काफी महत्वपूर्ण मामला है और जैसे हमारा

श्री सभापति : आप मेरी बात सुन लीजिए। मामला महत्वपूर्ण है लेकिन आज इन्होंने लोक सभा मे वक्त दे रखा है। आप चाहे तो मैं पटल पर रखवा देता हू, केवल ले करवा देता हू।

श्री नीतीश कुमार : क्लैरीफिकेशन किसी और दिन रख सकते हैं।

SHRI PRANAB MUKHERJEE Technically it should be done after this business is over.

MR CHAIRMAN. That is right.

SHRI PRANAB MUKHERJEE. Because the business is not yet over, the Minister is yet to reply, the debate is not complete, so, the Minister can lay it on the Table of the House

Sir, I have a small submission before the hon Minister's reply My submission is that it is a procedural matter. Sir, the CBI is under Prime

Minister. We have been debating for four hours It is not possible for the Prime Minister to always reply to the debate But it is expected, at least the House of Elders can expect, that when a four-hour debate takes place, Prime Minister must come and listen to the debate at least for 10 or 15 or 20 minutes and inform the House that he is not in a position to reply to the debate or he would like his colleague to reply to the debate. And this point was specifically mentioned when Mr. Nilotpal Basu spoke, that Prime Minister should reply; Prime Minister should come. This subject is under direct administrative control of Prime Minister. I have no disrespect for the hon Minister, he can deal with the subject competently. But it is not a question of individual competence to speak or it is not even a question of collective responsibility. In these matters, I will most respectfully submit to you that our sense of injured feelings should be conveyed to the Prime Minister And I expect that Parliamentary Affairs Minister should take note of what Mr. Nilotpal Basu has said and convey it to the Prime Minister, and, I am sure, if he was told that this is the feeling of the House, he would have come and spent some time. This is my most respectful submission.

श्री सभापति : आपकी फीलिंग उनको कनवे कर दूगा।

श्री नीलोत्पल बसु : महोदय,चेयर से भी हमारी यह गुजारिश है क्योंकि यह प्रीसीडेंट नहीं बनना चाहिए। गवर्नमेंट ऑफ इंडिया के जो बिजिनेस रूल्स हैं, उनके तहत जिस इनडिविजुअल के नीचे एक मिनिस्टरी होती है, यह हमारी परम्परा रही है कि डिबेट में वह मिनिस्टर उपस्थित रहे और उसका रिप्लाई करे। अगर इससे डेविएशन होता है, मुझे नहीं पता कि इस संबंध में आपके पास कोई लिखित मे परमिशन मांगी गयी है या नहीं, अगर आया है तो आप बता दीजिए। अगर नहीं आया है तो this is in gross violation of the rules of procedure and also convention. Sir, whosoever it may be, I have no disrespect towards the Prime Minister, but this is also a sad commentary on how this Government approaches the Parliament. This is something directly under his administrative jurisdiction according to the Government of India business allocation. And they are not sticking to that. How is the Government performing?

SHRI KAPIL SIBAL. Sir, about the Rules of Procedure.....

श्री सभापति : देखिए, रूल्स ऑफ प्रोसीजर के संबध मे आपकी जो फीलिंग्ज़ हैं, उनको मैं कनवे कर दूंगा और फ्यूचर मे हमेशा.....**(व्यवधान)**.....

SHRI KAPIL SIBAL: Mr. Chairman, we have another problem, that some of the queries that we have raised can only be answered by the Prime Minister

श्री सभापति : अब आप इस झगड़े मे मत पड़ो।

श्री कपिल सिब्बल : झगड़े की बात नहीं है सर। हम झगड़े मे कभी भी नहीं पड़ते। But we need his presence

श्री सभापति : यह बात ठीक है लेकिन मैंने आपको बता दिया है कि मै आपकी फीलिंग्ज को कनवे कर दूगा, That is enough

SHRI ARUN JAITLEY Sir, I am very grateful to the hon. Members who have expressed their opinion at length, and have also expressed their concerns on the subject.

Sir, let me, first of all, assure this hon. House that the Central Bureau of Investigation is an extremely professional agency and, as in all other cases, in this case, this Government has not used, and shall not use the CBI for any collateral purpose, either for wrongful investigation against some individuals, or for hushing up any particular case. Ever since this Government came to power, this particular case has been discussed, on several occasions, in this House and also in the other House. My colleague, Mr. Ravi Shankar Prasad, mentioned that his Government did not ever think in terms of withdrawal of prosecutions, which Governments in the past had thought of, because we wanted the law to take its own course In fact, I do recollect reading statements made by some of my friends, on the other side, that, when the CBI prosecutor argued the case and said that 'we have material against certain persons who are accused in this case, editorials were written, demands were made, that because it is this CBI which is still pursuing the case against Mr. Advani and others'--he has said this in court--'on this ground alone, Mr Advani and others must resign from the Government' But I do not know what changed. Maybe, some news-item appeared or some programme appeared on the Television, and a suggestion was made that Section 120B has been dropped from the charge-sheet against Mr Advani and others. And a suggestion is made thereafter that because of this, the CBI has shown some favour as far as Mr. Advani and others are concerned

Sir, I have been listening to a large number of my colleagues in this House Mr Sibal very eloquently, and in his own competent manner, gave all the details of the facts. Let me just repeat some of the things that he said, and add some of the things which were missed out. And it is my submission that on his factual narration of facts I agree with him on a number of points. In the course of the last two days in this House and the other House, and in the media, we debated this issue, whether there has been any effort to drop or delete Section 120B or whether this entire unrest is about the failure to surreptitiously add Section 120B when it was not warranted

SHRI KAPIL SIBAL: How do you know that it is not warranted? . *(Interruptions)*

SHRI ARUN JAITLEY. Mr Sibal, allow me to complete. ..*(Interruptions)*..

SHRI KAPIL SIBAL. How do you say that? As a Minister, you cannot say that it is not warranted. *(Interruptions)*. .

SHRI ARUN JAITLEY Mr Sibal, let me complete. .*(Interruptions)* ..

SHRI KAPIL SIBAL I am just saying. Can you ever say, in a public platform, that 120B is not warranted? You are the Law Minister How can you say that? ...*(Interruptions)*.

SHRI ARUN JAITLEY Well, Mr. Sibal, once I give you all facts, you will, probably, tend to agree with me...*(Interruptions)*...

श्री सभापति : सुनिए, सुनिए। ...**(व्यवधान)**...

SHRI KAPIL SIBAL: What is the whole case about it? ...*(Interruptions)*...You give the message...*(Interruptions)*...Now, the point is: What is the message going out? ...*(Interruptions)* .He just said, "It is for the court to frame the charges" Now, he said, "Section 120B is not warranted". ...*(Interruptions)*

SHRI ARUN JAITLEY. Yes, it is for the court to frame charges ...*(Interruptions)*. I had said that yesterday and I repeat that today, it is for the court to frame the charges. *(Interruptions)*...

SHRI KAPIL SIBAL. That is correct. But you cannot approach the court by saying that it is unwarranted *(Interruptions)*

SHRI ARUN JAITLEY We are, by proxy, arguing what should have been argued in the court..*(Interruptions)*.. That is why, when Mr Sibal gives all the facts, a reply to that should not be warranted. .*(Interruptions)*

SHRI NILOTPAL BASU· The Government, standing here on the floor of the House, is influencing the course of the case. ...*(Interruptions)* .

श्री सभापति : सुन तो ले। ...**(व्यवधान)**... Let him complete. ..*(Interruptions)*.. Let him complete *(Interruptions)* Let him complete *(Interruptions)*... Let him complete what he wants to say. ...*(Interruptions)* ये कह रहे हैं, अपना आरग्युमेंट दे रहे है। आप भी अपना आरग्युमेंट देते हैं। ...**(व्यवधान)**... Now, let him finish *(Interruptions)*..

श्री कपिल सिब्बल : मैंने तो कभी नहीं ...**(व्यवधान)**...

श्री सभापति : नहीं, वह ठीक है। Let him finish. .. *(Interruptions)*...

श्री कपिल सिब्बल : मैं अपनी बात स्पष्ट करना चाहता हू। हमने कभी नहीं कहा कि 120B is warranted हमने कहा है कि वह चार्जशीट फाइल करनी चाहिए, फिर कोर्ट फैसला करेगी whether it is warranted or not. *(Interruptions)* .

श्री सभापति : वे उसी पर बोल रहे है। ...**(व्यवधान)**...

श्री कपिल सिब्बल : उसी पर हमने कह दिया कि it is not warranted .. *(Interruptions)*.

श्री सभापति : आप बोलने दीजिए। ये आगे का बैक ग्राउन्ड बना रहे है। जैसे आप लोग बैक ग्राउन्ड बनाते हैं, वैसे ही बैक ग्राउन्ड बनता है।...**(व्यवधान)**...

SHRI ARUN JAITLEY· Sir, let me end this controversy which has been raised only by saying this. *(Interruptions)*. .

श्री खान गुफ़रान जाहिदी : ये पार्टीसिपेट कर रहे है या रेप्लाई कर रहे हैं? ...**(व्यवधान)**...

श्री सभापति : ये कोई नहीं कर रहे है। आप बैठ जाइए।

SHRI ARUN JAITLEY. Sir, let me end this controversy by merely stating some of the facts, some of which my hon colleagues may not dispute. Whether section 120B is warranted or not warranted, really, the political process cannot decide The Government has no power to direct the CBI, the CBI, if it is satisfied that it is warranted, can state that in the charge-sheet, if the CBI states that, it is still for the court to decide whether it is warranted or not; and if the CBI does not state that, then, on the basis of the entire material, it is still open for the court to decide whether it is warranted or not *(Interruptions)*

श्री खान गुफ़रान जाहिदी . आपने एविडेंस को मना किया है ये फिर ...**(व्यवधान)**...

श्री सभापति · चलिए, आप बोलिए।

SHRI R.K. ANAND· How can you put this question? *(Interruptions)* .

SHRI KAPIL SIBAL· You just answer one question How can the Government answer this? *(Interruptions)*

SHRI NILOTPAL BASU The court has to apply its mind and see whether the Government is giving the document. *(Interruptions)*.

MR CHAIRMAN He has clarified the whole position *(Interruptions)*

SHRI ARUN JAITLEY Sir, let me just enumerate what has happened in this case After the incident of 6th December, the CBI or the UP CB-CID filed a charge-sheet in the court at Lalitpur on 27th February, 1993 When the charge-sheet was filed--I need not go into the details of what my friend, Shri Sanjay Nirupam has argued and what kind of statements that the witnesses had made, which were annexed to it--there was, admittedly, no charge under section 120B Once there was no charge under section 120B, that trial could have gone on In the first instance, there was no BJP Government in UP The UP police could not have been accused of showing any bias towards the accused. Uttar Pradesh was under President's rule A very leading member of the Congress Party was the Governor of UP Mr Narasimha Rao was the Prime Minister. The UP police, the CB-CID, investigated the case and had a large number of

voluminous statements and, regrettably, for them, a large number of those statements also had said that some of the accused persons were actually making appeals to the people not to touch the disputed structure I am not going into those details *(Interruptions)*

SHRI KAPIL SIBAL: Again, he is giving the details. We have not touched the merits of the case at all *(Interruptions)*. Otherwise, we would have given all the evidence. *(Interruptions)*

SHRI ARUN JAITLEY I am not going to read the evidence. I am not even going to refer to the evidence. I am merely suggesting that a charge-sheet was filed by the UP CB-CID and once the charge-sheet was filed. *(Interruptions)*

SHRI NILOTPAL BASU: Who had discussed about the UP CB-CID? It is not about the UP CB-CID.

MR. CHAIRMAN: That has been referred to So many Members have referred to the UP CB-CID

SHRI ARUN JAITLEY Sir, we did not disturb anybody when they were speaking If this becomes a practice of the House that we listen to each one of them and we have to respond when these disturbance take place, then, do they want a situation that the debates should be conducted in this manner? *(Interruptions)* I am answering all your questions, kindly wait and have patience

Sir, once the charge-sheet was filed, cognisance was taken by the judge After cognisance was taken by the judge, something, which is unprecedented, started happening in this case. There is a charge-sheet which is on in the case. But then as Shri Bhardwaj referred to at length, a larger charge-sheet was filed before another court. When a larger charge-sheet is filed before another court by the CBI, there is a particular procedure to be followed and that procedure is of significance Even though 120 (B) was not an offence against Shri Advani and others in the original charge-sheet, an effort was made to somehow subsume this charge-sheet into a larger charge-sheet and a particular procedure was followed Under that procedure, under Section 11 of the CrPC, the State Government's permission is required; a notification is required and the

consent of the High Court is required Now in this case a request was, in fact, made. The State Government -- it was under President's rule and the Governor was in-charge -- was requested to issue a notification so that the smaller charge-sheet could now be subsumed into a larger charge-sheet and, somehow, Section 120 (B) became applicable. There was no BJP, there was no Rajnath Singh, there was no Shri Vajpayee and there was no Ms Mayawati at that stage. There was a Congress Government at the Centre Still the Governor's Office goes into this question and gives several legal elaborate reasons in September 1993 and says, "A notification merging the two, subsuming one into the other cannot be issued". And the whole game plan of introducing 120 (B) when it was not there in the first instance, stands defeated. Now it is still a mystery to me The Governor's Office says, "No, it cannot be done". A notification is declined and the consent of the High Court under Section 11 is not taken and yet they feel that merely because they have not been able to collect sufficient evidence against some leaders who were then in the Opposition, somehow an effort should be made to still subsume it notwithstanding the mandatory requirement of law. Now you have an unprecedented situation that without complying with the requirement of Section 11, i e , the consent of the High Court and the Governor's permission...*(Interruptions)*. .

SHRI KAPIL SIBAL Sir, it is again wrong. I may remind my learned friend that a notification was issued by the UP Government ...*(Interruptions)*... But he states that no notification was issued. It is very unfortunate that the Minister is stating a fact which is contrary in the charge-sheet filed, which says that the a notification was issued by the State Government He should withdraw his statement

SHRI HANSRAJ BHARDWAJ Sir, I can read out the notification number. *(Interruptions)* .

SHRI ARUN JAITLEY I am grateful to my friend, Shri Kapil Sibal, for having raised this question The Governor's Office ...*(Interruptions)* .

श्री सभापति : मैं एलाऊ कर दूं?

श्री कपिल सिब्बल : नोटिफिकेशन इश्यू हुआ है...(**व्यवधान**)...

श्री सभापति : वह ठीक है, हो गया। एलाऊ कर दूं।

श्री कपिल सिब्बल : नहीं, उसकी कोई जरूरत नहीं है।

श्री सभापति : ठीक है, मैं समझ गया। बैठिए।

6.00 P.M.

SHRI HANSRAJ BHARDWAJ. A notification was issued by the State Government. I can give you its number also.

श्री अरुण जेटली : भारद्वाज जी, प्रतीक्षा करे। मैं आपको पूरे तथ्य दूंगा तो आप असहमत नहीं होगे क्योंकि आप उस वक्त कानून मंत्री थे।

SHRI HANSRAJ BHARDWAJ: A notification was issued.

श्री अरुण जेटली : मुझे कम्लीट करने दीजिए, आप असहमत नहीं होंगे ...**(व्यवधान)**... पेशेन्स रखिए।

SHRI KAPIL SIBAL: He is now accusing the very CBI that it was used by somebody else to add 120 (B). ...*(Interruptions)*..

SHRI ARUN JAITLEY: I have not accused anybody. But I cannot understand the excitement when I have not even placed the facts. On 9 9 1993, the Governor's Office declined to give consent to issue a notification for transfer of case based on FIR No 198 of 1992 from Rai Brailly to Lucknow. This request was declined and the High Court's consent was not taken. Thereafter -- this is where the whole mystery lies -- without the consent of the Governor and without the consent of the High Court, somebody still issues a notification. ...*(Interruptions)*...

श्री सभापति : बोलने दीजिए...**(व्यवधान)**... जो आप बोल रहे हैं...**(व्यवधान)**...

SHRI KAPIL SIBAL. Earlier he said no notification was issued. Now he is saying that a notification was issued. . .*(Interruptions)*...

MR. CHAIRMAN: Please don't interrupt. ...*(Interruptions)*... देखिए, आपको किसी ने इंटरप्ट नहीं किया और मैं ऐसा समझता हूं कि इंटरप्शन से काम नहीं चलेगा।

SHRI ARUN JAITLEY: Sir, the initial Notification creating the court at Lucknow dealt with 48 cases, and not .the 49th case, which was Mr. Advani's case in Rai Bareilly. This decision was a conscious decision Let me just read out one paragraph of what the UP Government has told the Supreme Court in this regard "...by this Notification dated 9.9.93, was a conscious decision taken by the Government after approval of the Adviser to the Governor on the legal advice..." ...*(Interruptions)*...

SHRI KAPIL SIBAL: What is he reading, Sir? ...*(Interruptions)*...

SHRI ARUN JAITLEY: Sir, I need protection. The House cannot be run in this manner, that every thirty seconds Mr Sibal will get up and . ...*(Interruptions)*... I am sorry, this is not the way .*(Interruptions)*...

श्री सभापति : नहीं, ऐसा मत करिए ...**(व्यवधान)**... यह गलत बात है। ...**(व्यवधान)**... यह क्या पढ़ रहे हैं। ...**(व्यवधान)**... जो पढ़ रहे हैं, पढ़ रहे हैं। ...**(व्यवधान)**...

SHRI ARUN JAITLEY: This is not the way of debating an issue. ...*(Interruptions)* .

श्री सभापति : टेबल पर रखवा देंगे। ...**(व्यवधान)**... हां, टेबल पर रखवा देंगे। ...**(व्यवधान)**...

SHRI KAPIL SIBAL: Sir, they did not allow me to read the charge-sheet. ...*(Interruptions)*...

श्री सभापति : चॉर्जशीट नहीं है, गवर्नर का है वह।...**(व्यवधान)**... आपने रेफर किया है गवर्नर का। ...**(व्यवधान)**...

SHRI ARUN JAITLEY: Sir, my friend wants to know what I am reading I am reading the affidavit of the UP Government by the... ...*(Interruptions)*...SHRI NILOTPAL BASU: Sir, he has to authenticate it. . .*(Interruptions)*...

SHRI SURESH PACHOURI. Sir, he is misleading the House. Earlier he had said that no Notification was issued And now he is saying that. ...*(Interruptions)*...

SHRI ARUN JAITLEY: Sir, .I have not said so ..*(Interruptions)* . Lack of comprehension of my friend does not mean that I have said so. .. *(Interruptions)*...

श्री सभापति : यह तो उचित नहीं है। ...**(व्यवधान)**...

SHRI HANSRAJ BHARDWAJ: He has not prepared his brief. The Notification is there. ...*(Interruptions)* ..

SHRI SURESH PACHOURI We have the Notification number ..*(Interruptions)* ..

SHRI NILOTPAL BASU: Sir, he has to authenticate it, and place it on the Table of the House .. *(Interruptions)*...

SHRI ARUN JAITLEY: Sir, if somebody deliberately chooses to misunderstand, I am not going to take it as a reflection on what I have to say. I seek your protection that I be allowed to complete my speech. . .*(Interruptions)*...

श्री नीलोत्पल बसु : सर, यह ऐसा कोई डॉकूमेंट पढ़ रहे हैं जो हमारे पास उपलब्ध नहीं है।...**(व्यवधान)**...

श्री सभापति : वह जो डाकूमेट पढ़ रहे हैं, नहीं पढ़ रहे हैं, अॅथंटीकेट करे या नहीं करे, लेकिन हाउस मे बोल रहे हैं। जब हाउस मे बोल रहे हैं तो रेसपासिबिलिटी के साथ बोल रहे हैं। ...**(व्यवधान)**...

श्री नीलोत्पल बसु : लेकिन यह हमारे पास उपलब्ध नहीं है। ...**(व्यवधान)**...

SHRI KAPIL SIBAL He can't. ...*(Interruptions)* ..He can't. ...*(Interruptions)*. .

SHRI NILOTPAL BASU: Sir, he has to authenticate it. *(Interruptions)*. .

SHRI ARUN JAITLEY Sir, my friends should permit me, we have heard them patiently. ...*(Interruptions)*.. Sir, merely because the Adviser's order makes the position uncomfortable for them, that does not mean that we should be prevented from speaking. ...*(Interruptions)*. .

SHRI NILOTPAL BASU: No, Sir. You must give us protection. He is quoting from a document which is not available to the House. ..*(Interruptions)*...He should first place it on the Table of the House. .. *(Interruptions)*...

SHRI ARUN JAITLEY: Yes, I will place it.

SHRI NILOTPAL BASU So, let him authenticate it and place it on the Table of the House. Let him say that He is quoting from the evidence. . *(Interruptions)*.

SHRI ARUN JAITLEY Sir, I will abide by your ruling on the matter. If I am permitted to clarify, then, whatever ruling the hon Chairman gives, I will abide by it *(Interruptions)*

SHRI NILOTPAL BASU We are not discussing the merits of the case We are only asking the CBI.. *(Interruptions)*.

SHRI ARUN JAITLEY Whereas, I am only talking about the CBI *(Interruptions)* It is not a case of taking out 120B. It is a case of surreptitiously bringing in 120B in the case *(Interruptions)*...

AN HON MEMBER You are defending the CBI . *(Interruptions)*...

SHRI ARUN JAITLEY· Yes, yes I am defending the role of the CBI *(Interruptions)*. . I am defending the role of the CBI. What the CBI has done in not adding 120B is a correct decision. ...*(Interruptions)*.

श्री सभापति · ठीक है, आगे चलिए। आगे चलिए।

SHRI SURESH PACHOURI If he is reading from any paper, he will have to authenticate that *(Interruptions)* .

श्री सभापति : वह आप जो कह रहे है वह सही है। ...**(व्यवधान)**...

SHRI ARUN JAITLEY· I have no objection to it .*(Interruptions)*...All right I will authenticate that And this authentication will be reasonably embarrassing to you! *(Interruptions)*

SHRI SURESH PACHOURI You please authenticate the charge-sheet also

SHRI ARUN JAITLEY· I will authenticate what I want to authenticate Sir, the stand of the UP Government is that, on 9 9 93, a Notification was issued with regard to the 48 cases, and Mr Advani's case was kept out This was a conscious decision of the office of the Governor, whose Adviser signed the note Thereafter, . *(Interruptions)*.

SHRI KAPIL SIBAL This is a very serious matter, Sir

SHRI ARUN JAITLEY. It is a serious matter as to how this charge-sheet was finalised in violation of the Governor's order *(Interruptions).* It is a serious matter *(Interruptions)* It is a serious matter *(Interruptions)*. .

श्री सभापति : माननीय सदस्य, यह उचित नहीं होगा।

(At this stage, some hon Members left the Chamber)

श्री सभापति : आप बोलिए ।

SHRI ARUN JAITLEY Sir, I reiterate that when the matter went to the highest office in the State of U P , as to whether the two charge-sheets, one where 120(B) was proposed and one where 120(B) was not there, obviously because evidence was lacking, can be combined, the Adviser to the Governor, after detailed reasons, approved the file saying, 'the two cannot be combined for various legal reasons ' Therefore, a conscious decision was taken that Mr Advani's case No 198 could not be merged with the RC 1 in Lucknow. Notwithstanding that, the other requirement of section 11 was, High Court's permission was to be taken But, the pressure was somewhere, because of lack of evidence, that somehow the two must be combined Therefore, notwithstanding the fact that the Governor's office had declined it, without taking the permission of the Governor, without taking the permission of the High Court which was necessary, still at a junior level, a notification was issued This is what, in its affidavit before the Supreme Court, the U P Government has said that this notification dated 9 9 93 was a conscious decision taken by the Government, after approval of the Adviser to the Governor, on the legal advice given by the Law Department, approved by the Law Secretary, not to include the case crime No 198 of 92 in the notification dated 9 9 93 because there was already a court of Special Magistrate established at Rai Bareilly to try the case crime No 192 Therefore, if any amendment was made in the notification dated 9 9 93, the approval of His Excellency, the Governor and the consultation of the High Court, which was mandatory, was not done

Now, Sir, what does this prove? All that it proves is that there were two charge-sheets -- one where 120(B) was there, where Mr Advani is not an accused, the other, where Mr Advani is an accused and there is no 120(B). Mr Advani's charge-sheet had to be subsumed into the larger

charge-sheet, a procedure under law had gone through That procedure could not be complied with because the Governor did not give the consent, the High Court was not approached. Therefore, in violation of law, through the backdoor, 120(B) was introduced into the case by merging the two. The trial started, the charge was framed The matter went to the High Court. The High Court said, 'as far as the charge is concerned against all the accused, the charge is maintainable ' But what happens to those accused, including Mr. Advani who were accused in crime No.198, the High Court says, 'while charge against 48 cases is upheld, in respect of a notification of 9 9 93, the impugned order is set aside in respect of crime No 98 of 1992 ' Therefore, the framing of charge against him under 120(B) and others was set aside The State had two options The first option was, you can now issue a notification and correct the whole procedure. The second option was, the court is already there at Rai Bareilly and you set it up We are today discussing the role of the CBI. What does the CBI do after this? Even though the Governor had denied permission in 1993, the CBI again goes back to the State Government and says, 'please issue a notification ' Was the CBI colluding when it still wanted a notification merging the two? It tried one option under the judgement The State Government said, 'there are detailed reasons dated 9 9 93, given by the Adviser to the Governor that these two cannot be merged. These are different charge-sheets, the evidences are different, the accusations are different. So, a merger cannot take place.' Therefore, we don't see any reason why to disagree with that order. We are instead constituting the court at Rai Bareilly. So, the State Government constitutes the court at Rai Bareilly, the trial begins. Once arguments on charge are going on today, the CBI prosecutor vehemently argues -- he has concluded his arguments -- that charge under these sections must be framed On the first day, my friends in the Opposition make a statement, 'Oh! the CBI is saying charge should be framed. When the CBI is saying this, Mr. Advani must resign ' And suddenly, somebody without knowing all this background, comes up with some article in the newspaper, "well, why 120B is not there?" So, now the other rhythm starts, "well the CBI is colluding to save you." Sir, whether the CBI is seriously pursuing or colluding, eventually the judge of this can't be this hon. House, can't be the Members polarised on party-lines, it has to be the judge, it has to be the High Court, it has to be the Supreme Court. Due process of law requires that when case is being argued that charge has to be framed or not to be framed by the judge, we don't prejudice the trial by having a parallel debate on the subject, and the insistence for this debate was an

insistence to create an environment which is prejudicial to a fair trial Sir, this is something which is ought to have been resisted.

My respectful submission, Sir, is, now, these facts and the Governor's adviser's order are before us And the Governor was not a BJP Governor, the then Governor, today, is a leading Member in the front benches of the Congress Party in this House, he is a General Secretary of the Congress Party. When this was the Governor's order that these two can't be merged into one, you find fault with Rajnath Singh and Mayawati for not merging the two cases together, when your own Governor, also, under legal advise said that these two can't be merged, Sir, I get an uneasy feeling that this is not a case where 120B has been dropped 120B was never there in Rae Bareily The Rae Bareily chargesheet continues, 120B still not there. There is no question of dropping or diluting the charge. An effort has been made If there was a conspiracy, it was a conspiracy somehow to bring in 120B, somehow it has not succeeded and the entire grievance is really because of that, and it is for this reason, Sir, we oppose this motion.

STATEMENT BY MINISTER

Major accidents occured recently on Northern, South Central, East Central Railways, and Konkan Railway (KRCL)

रेल मन्त्री (श्री नीतीश कुमार) . सभापति महोदय, हाल ही मे उत्तर, दक्षिण मध्य, पूर्व मध्य रेलो तथा कोकण रेलवे (केआरसीएल) पर हुई दुर्भाग्यपूर्ण दुर्घटनाओ के बारे मे मुझे सदन को बताते हुए दुख हो रहा है। इनमे उत्तर रेलवे पर आग से हुई दुर्घटना और कोकण तथा दक्षिण मध्य रेलवे पर गाड़ी के पटरी से उतरने की दो प्रमुख घटनाएं शामिल है।

15-05-2003 को उत्तर रेलवे के फिरोजपुर मडल मे लुधियाना तथा लाढोवाल स्टेशनो के बीच 3 55 बजे 2903 अप गोल्डन टेम्पल मेल मे आग लग गई थी। इस दुर्घटना मे 3 सवारी डिब्बे पूरी तरह से जल गए थे (एस-3, एस-4 तथा एस-5) तथा चौथा सवारी डिब्बा अर्थात एस-6 डिब्बा अंशत जल गया था। आग का पता चलने के बाद गाड़ी को रोकने के लिए तत्काल कार्रवाई की गई और उसके पश्चात प्रभावित डिब्बो को शेष गाड़ी से अलग कर दिया गया ताकि और जान-माल की हानि से बचा जा सके। घायल व्यक्तियो को तत्काल चिकित्सा सुविधा मुहैया कराई गई और राहत एवं बचाव कार्य शुरू किया गया।